

SHOULD THERE BE A SOCIAL SECURITY TOTALIZATION AGREEMENT WITH MEXICO?

HEARING BEFORE THE SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CLAIMS OF THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES ONE HUNDRED EIGHTH CONGRESS FIRST SESSION

SEPTEMBER 11, 2003

Serial No. 47

Printed for the use of the Committee on the Judiciary



Available via the World Wide Web: <http://www.house.gov/judiciary>

U.S. GOVERNMENT PRINTING OFFICE

89-298PDF

WASHINGTON : 2003

For sale by the Superintendent of Documents, U.S. Government Printing Office
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SHOULD THERE BE A SOCIAL SECURITY TOTALIZATION AGREEMENT WITH MEXICO?

Thursday, September 11, 2003

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
BORDER SECURITY, AND CLAIMS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:40 a.m., in Room 2237, Rayburn House Office Building, Hon. John Hostettler [Chairman of the Subcommittee] presiding.

Mr. HOSTETTLER. This Subcommittee will come to order.

Before I begin my opening statement, I would like to thank the witnesses for allowing your schedule to be so flexible. We have scheduled and postponed this hearing prior, and I apologize for that inconvenience; and the Chair very much appreciates your ability to stay flexible in your plans. I would like to also—likewise thank Members of the Subcommittee for being here on such a very important day in our Nation's history of commemoration and doing this important work.

The purpose of this hearing is to inquire into the potential costs and benefits of a pending agreement between the United States and our southern neighbor, Mexico. This agreement will dramatically reverse the current prohibition of providing Social Security benefits to illegal immigrant workers from Mexico.

Section 2029(y) of the Social Security Act requires aliens in the United States to be, quote, "lawfully present," end quote, in order to receive benefits. However, there are important exceptions. One of those exceptions in the Social Security Act states that an alien may receive payments outside the United States, including benefits based on unauthorized work in the United States, if he or she is a citizen of a country with which the United States has a totalization agreement.

Totalization agreements have been part of the U.S. Government's international treaty environment for more than 20 years. We have such agreements with 20 other countries, including Canada.

A totalization agreement with Mexico is different than with those other 20 countries for several reasons. First of all, none of those countries have public policies that encourage illegal immigration to the United States.

Secondly, because these countries have sent relatively few workers to the United States over the years and very few illegal workers, illegal immigration from these countries is essentially a nonissue. That is, there are insignificant numbers of illegal aliens

residing in the United States from such countries as Switzerland, South Korea, Australia, Germany, or Spain, which have had totalization agreements with the United States for many years. In general, because of the liberal social programs and strong economies of those countries, U.S. Citizens receive higher benefits from these agreements than do the foreign citizens receiving benefits from our system.

According to the last estimate put out by the INS in January of 2003, Mexico is the largest source country for illegal immigration to the United States. According to the INS, the unauthorized resident population from Mexico increased from about 2 million in 1990 to 4.8 million in January of 2000. That is a rate of over 200,000 people a year.

Mexico's share of the total illegal resident population increased from 58 percent in 1990 to 69 percent in 2000. That increase in illegal residents from Mexico came about in the same decade that more than a million people from Mexico received green cards through legal immigration, including those under amnesty programs. Using the INS report to project forward to the current day, it is reasonable to estimate that there are now more than 5 million illegal aliens from Mexico in the United States.

Members of Congress have expressed their concerns publicly about how the pending totalization agreement with Mexico will accelerate the flow of illegal immigrants from Mexico. I am concerned about the obvious inducements to illegal workers from Mexico. Our country is in a recession, and our first priority should be to employ U.S. citizens, whether native born or legal immigrant.

I am also concerned about the cost of this agreement. News articles earlier this year equated the balance in the Social Security Administration's earning suspense file, sometimes referred to as the "unmatched W-2 fund account," of \$345 billion with the amount that will be due Mexican workers.

Let me dispel a popular misconception encouraged by the advocates of illegal immigration. This \$345 billion is not a savings account. Instead, it is a liability account, some portion of which reflects earnings by illegal aliens. By definition, the Social Security Administration doesn't know who really contributed the W-2 earnings, but \$350 billion is undoubtedly on the low side of what this totalization agreement will eventually cost the American taxpayer, because that \$345 billion is due only to those people who have used someone else's Social Security number when filling out a W-2, or have made up a number.

The earning suspense account does not reflect illegal workers who have fraudulently obtained a valid Social Security number or have obtained an I-10 tax identification number from the U.S. Treasury, which is issued without checking whether the recipient is legally present in the United States or not.

Most importantly, low-wage workers pay into Social Security much less than they take out, because they are more likely to qualify for lifelong disability payments and because Social Security retirement is not based on how much you paid in.

Workers become eligible for Social Security benefits when they meet the requirements of the Social Security Act. And once Mexico has a totalization agreement with the United States, those 5 mil-

lion illegal Mexican residents here will be eligible. They will be eligible for disability benefits, Social Security and Medicare once they meet the minimum number of work quarters to qualify.

In addition, there are potentially millions of Mexicans who worked in the United States 10 or 20 years ago and who have since returned to Mexico, who will be coming forward with old W-2 forms to establish their own eligibility. If the Congress and the President agree to provide a program for seniors to reduce the cost of drug prescriptions, the 5 million illegal aliens from Mexico will be eligible for that, because almost nothing is being done to remove illegal aliens from this country, and those 5 million Mexicans will retire here whether they bother to become legal, are granted amnesty or just remain here.

In the meantime, looking forward, unless some dramatic steps are taken to stop illegal immigration from Mexico, we will continue to add 200,000 or more per year to the resident illegal alien population from Mexico. I think it is obvious that at this rate there will be 7 or 8 million illegal aliens from Mexico resident in the United States by 2010, which is about when many will discover they are eligible for the Social Security disability standards. 2010 is also when the first wave of the baby boom that began in 1945 will be eligible for Social Security at age 65. That looks like a most unfortunate coincidence for the fiscal solvency of the Social Security trust fund.

Because of these concerns, this Subcommittee joined with the Social Security Subcommittee of Ways and Means to request a GAO investigation about the level of scrutiny that the Social Security Administration applied to this agreement. Today, we will learn what the GAO has discovered through its inquiries.

We will also hear from the Commissioner of Social Security, the Honorable Jo Anne Barnhart, why the administration thought that the totalization agreement with Mexico is a good idea. If the totalization is concluded with Mexico, the Committee on the Judiciary will have an opportunity to consider it as it passes through Congress for review as a foreign treaty.

I turn now to my colleague, Ms. Jackson Lee, for any opening statement she might have.

Ms. JACKSON LEE. I thank the Chairman very much, and I too thank the witnesses for their presence here and, as well, the audience and Members, for this is a day that we continue to honor and respect those who lost their lives and those who continue to put their lives forward on behalf of the principles of this great Nation.

This is an important hearing, and the last comment that the Chairman made, I think is even the more important statement; and that is the opportunity for this Committee to review any agreement that would be made.

And might I make the point, since the Commissioner is here, we have had incidents before with the USTR in terms of trying to legislate on a treaty. I am delighted that you are here this morning, in particular, and I hope the message will go back that we are better as a nation if we collaborate on policies between the administration and the Congress.

I think this is an important hearing, and I certainly hope that in this instance the Social Security Administration and the admin-

istration will not try to legislate on a treaty without the input, collaboration, and work of the United States Congress.

The Social Security program provides monthly cash benefits to retired and disabled workers and their dependents and to the survivors of deceased workers. To qualify for benefits, they must work in Social Security-covered jobs for a period of time. Currently, workers need 40 quarters of coverage to become insured for benefits. Fewer quarters are needed for disability and survivor health benefits, depending on the worker's age.

Of course, the Social Security program is financed primarily from mandatory payroll taxes levied on wages and self-employment income. Most of our jobs are covered by Social Security, and approximately 96 percent of our work force is required to pay Social Security. We become eligible for Social Security benefits when they meet the insured status and age requirements; they become entitled to benefits when they have met all the eligibility requirements and filed an application. And, of course, because Social Security is an earned entitlement program, there are few payment restrictions when a worker becomes entitled to benefits.

But there is a process. The Social Security Act does not prevent undocumented aliens from becoming eligible for Social Security benefits. However, an alien must be lawfully present in the United States to receive benefits. If an alien in the United States is eligible for benefits, but is not lawfully present, the benefits are suspended. There lies at least an intervention to protect against illegal aliens being—receiving such funds.

The purpose of this hearing is to receive evidence on whether there should be a Social Security totalization agreement with Mexico. The close economic relationship between Mexico and the United States has resulted in an increasing number of Mexican citizens spending at least some portion of their working lives in the United States; and conversely, some United States citizens are spending a portion of their working lives, it seems, in Mexico. It seems that it is a fair equity question as to the point of these individuals working and not losing their benefits if they happen to be out of their respective countries.

In many cases, people working in two countries accumulate credits toward benefits eligibility under the Social Security systems of both countries, but their credits may not be sufficient to qualify them or their family members. The United States Social Security Administration and Mexican Social Security Institute have had informal conversations on the possibility of signing a Social Security totalization agreement that will alleviate this situation. It would allow workers to count the work they do in both countries. This is called totalizing one's credits. Employees would be able to combine earning credits to qualify for benefits under either or both systems.

Currently, about 3,000 United States citizens work in Mexico, and their employers are paying both United States and Mexican Social Security taxes over the next 5 years. These United States citizens and their employers will pay approximately \$134 million in Mexican Social Security taxes in addition to their contributions to the United States.

A totalization program would prevent such double taxation. Might I say this again. A totalization programs would prevent such

double taxation. I believe therein lies good news, particularly since we have established or seek to establish long-term relationships with Mexico. Employee wages would not be taxed for both the Mexican and United States Social Security system.

I have heard claims that the first-year costs of an agreement with Mexico would cost about \$345 billion. In fact, the \$345 billion figure is the approximate total wages in the Social Security earnings suspense file and is not a proper basis for predicting the cost of Social Security trust funds of a totalization agreement. The earnings maintained in the earning suspense file represent wages that the Social Security Administration is not able to post to a specific individual's record. That means, of course, that we might get a gift because we might not find those individuals. But forthrightly, we have an opportunity to give a gift to our corporations and other businesses that would not be doubly taxed.

While a portion of the earnings suspense file can be attributed to the earnings of undocumented aliens, this fund also includes earnings of legal aliens and United States citizens. Name and security mismatches can and do occur for a number of reasons, including transcription, typographical errors, incomplete or blank names or Social Security numbers, and name changes that were not reported to the Social Security Administration.

The Social Security Administration's actuaries estimate that an agreement with Mexico would cost the Social Security trust funds approximately 78 million in the first year, rising to approximately 138 million by 2008, for an average cost of \$110 million a year over the first 5 years.

I do want to emphasize that aliens who work a very short time in the United States would not receive full United States Social Security benefits under a totalization agreement. Benefits paid under a totalization agreement that are based on combined credits are prorated to reflect the length of time the employee was covered under the paying country's system. Full security—United States Social Security benefits would not be paid unless a person has worked long enough in the United States to qualify for benefits.

I always view this Committee as a problem-solving Committee; and I hope the Chairman and Members of our Committee will listen intently as we move to understand this process and to work along to get the best solution possible.

I would also offer a slight apology. We are doing a tribute on the floor, and I may step away for a moment and will be back to join the very distinguished panel. And we thank you very much for your presence here this morning.

Mr. HOSTETTLER. I thank the gentlelady.

Does any Member have an opening statement? Any other Member? Without objection, all Members' opening statement will be included in the record.

I would like to now introduce the members of our panel. Ms. Jo Anne Barnhart is the 14th Commissioner of Social Security, filling a 6-year term of office that will run through January 19, 2007. She was nominated by President George W. Bush on July 17th and confirmed by the United States Senate on November 2, 2001. As head of the Social Security administration, she has responsibility for administering the Social Security programs—retirement, survivors,

and disability—as well as the Supplemental Security income, or SSI, program.

During her career, Ms. Barnhart has served as Senator William V. Roth, Jr.'s legislative assistant and as his campaign manager, and managed her own political and public policy consulting firm. A graduate of the University of Delaware, Commissioner Barnhart was born in Memphis, Tennessee. She lives in Virginia with her husband and son.

Thank you for being here.

Barbara Bovbjerg is the Director for Education, Workforce and Income Security issues at the United States General Accounting Office. In that capacity, she oversees work on retirement income policy issues, including Social Security and private pension programs and operations and management of the Social Security Administration, Pension Benefit Guaranty Corporation, and the Employee Benefit Security Administration of the Department of Labor.

Previously, Ms. Bovbjerg was Assistant Director for Budget Issues for GAO, where she managed a variety of budget policy work including studies on the long-term effects of budget deficits.

Before joining GAO, she led the citywide analysis unit of the District of Columbia's Budget Office and analyzed State and local government finance issues for the Urban Institute. Ms. Bovbjerg holds an MRP from Cornell University and a BA from Oberlin College.

Kenneth Apfel joined the faculty of the LBJ School of Public Affairs at the University of Texas at Austin in January of 2001. His major teaching and research interests are in the areas of social policy and public leadership and management with a particular focus on aging, health care, and retirement issues.

Prior to his academic appointment, Apfel served as Commissioner of the Social Security Administration from 1997 until his term ended in January 2001. He was the first Senate-confirmed Commissioner of Social Security after SSA became an independent agency and the Cabinet-level position was authorized by Congress.

Apfel received his bachelor's degree from the University of Massachusetts at Amherst in 1970, a master's degree in rehabilitation counseling from Northeastern University in 1973, and a master's degree in public affairs from the LBJ School of Public Affairs in 1978. He is a Principal in the Council for Excellence in Government, an elected Fellow of the National Academy of Public Administration and the National Academy of Social Insurance.

Joel Mowbray, an investigative journalist and a nationally syndicated columnist, is best known for his exposes of the State Department which led to the end of Visa Express in Saudi Arabia and the subsequent resignation of the Assistant Secretary of State for Consular Affairs, Mary Ryan. Joel was also the first journalist in America to review the visa application forms of the 9/11 terrorists, and he uncovered the fact that all 15 of the applications should have been denied on their face by the U.S. Embassy in Saudi Arabia.

A graduate of the University of Illinois, with a degree in economics, and the Georgetown Law School, Joel worked on Capitol Hill for former Representative Mark Sanford of South Carolina, where he primarily handled Social Security privatization. Earlier, he

spent 2 years working for pioneer studies under now-Fox News reporter Heather Nauert.

I thank the witnesses once again for being here today, adjusting your schedules to meet our needs. You each have 5 minutes for an opening statement, And without objection, your written testimony will be included in the record.

And Ms. Barnhart, if you would begin.

STATEMENT OF JO ANNE BARNHART, COMMISSIONER, SOCIAL SECURITY ADMINISTRATION

Ms. BARNHART. Mr. Chairman and Members of the Subcommittee, thank you very much. I appreciate the opportunity to appear before you today to discuss international Social Security agreements, commonly referred to as totalization agreements.

Totalization agreements protect the benefits of workers who pay into the Social Security systems of two countries, but don't earn enough credits to receive full benefits for one or both of those countries. These agreements also eliminate dual Social Security taxation of citizens of one country who are sent by their employer to temporarily work in another country. As a result of existing totalization agreements, U.S. workers and employers are currently saving approximately \$800 million annually in foreign taxes that they do not have to pay.

There has been a good deal of misinformation about totalization in the media in recent months, and I would like to spend the majority of my 5 minutes addressing what I call the myths of totalization. I have specifically identified five myths largely related to Mexico, and I want to specifically address each one of these at this time.

Myth number one: A totalization agreement with Mexico would change existing immigration policy. The truth is that totalization agreements do not address immigration laws. The Social Security Administration does not set immigration policy, and the totalization authority, as passed by Congress in 1977, has nothing to do with immigration policy. A totalization agreement only deals with Social Security.

Myth number 2: One result of a totalization agreement with Mexico will be to begin to pay benefits to undocumented or illegal aliens. As is the case with existing agreements that we have, a totalization agreement with Mexico would not alter current law on this issue. Totalization agreements do not have any effect on the prohibition against payment of benefits to illegal aliens residing in the United States.

Myth number 3: A totalization agreement with Mexico will cost the United States \$345 billion. \$345 billion is the approximate amount of the total wages since 1937 for all workers in what we call the earning suspense file. It has no relationship to the cost of totalization agreements, because the \$345 billion represents the wages the individuals earned, not the taxes that were paid into the system. SSA actuaries estimate the cost of a possible totalization agreement with Mexico to be about \$78 million in its first year, rising to \$138 in the fifth year, for an average cost of \$110 million over the first 5 years.

Myth number 4: All of the earnings in the earning suspense file came from undocumented or illegal aliens. Earnings in the ESF represent wages that we were not able to post to a specific individual's earnings record because the name and the Social Security number don't match. Now, name and Social Security number mismatches can occur for a number of reasons, including transcription errors, typographical errors, name changes due to marriage or divorce, and an incomplete or even a blank name or Social Security number.

Myth number 5: Totalization agreements enable noncitizens who work in the United States for a very short period of time to receive full American Social Security benefits. Totalization agreements provide that the United States will pay prorated benefits to those workers who qualify under the agreement.

In 1977, Congress enacted the provisions that authorize the United States to enter into totalization agreements for two reasons, first of all, and importantly, to ensure fairness and equity by providing social insurance for those who, because they have split their careers between the United States and another country, might otherwise end up with insufficient credits to become entitled to a benefit from either country; and second, to protect American workers in businesses that are involved in international trade and commerce from double taxation and thus enhance trade with foreign nations.

I want to thank the Subcommittee for inviting me here today. I welcome the opportunity to clear up some of the misinformation that has been circulating about how totalization agreements work as well as the cost impact of totalization agreements.

And, at the conclusion of the comments of the other panelists, I will be very happy to try and answer any questions that you may have.

Mr. HOSTETTLER. Thank you.

[The prepared statement of Ms. Barnhart follows:]

PREPARED STATEMENT OF JO ANNE B. BARNHART

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before the Subcommittee to discuss international Social Security agreements, commonly referred to as "totalization" agreements. In my testimony today I will:

- Provide an overview on totalization agreements including the process for approval;
- Dispel some of the myths and correct misinformation that has appeared in the media in recent months concerning what Social Security totalization agreements are and do, as well as what they do not do;
- Bring you up-to-date on the status of ongoing negotiations regarding a possible totalization agreement with Japan; and
- Provide a status report on our discussions with Mexico.

FIRST, WHAT ARE TOTALIZATION AGREEMENTS?

Totalization agreements protect the benefits of workers who pay into the social security systems of two countries but do not earn sufficient credits to receive full benefits from one or both countries. Workers are deemed eligible for pro-rated benefits based on the amount of contributions made to the system of each country. United States totalization agreements include all OASDI programs.

Totalization agreements eliminate dual social security taxation of citizens of one country who are sent by their employer to temporarily work in another country. In addition to Social Security taxes, foreign workers can be exempted from Medicare

contributions and U.S. workers can also be exempted from health insurance and other taxes related to employment imposed by a foreign country in which they temporarily work. Individuals from a foreign country who are hired in the United States or were sent to the United States for more than a temporary period would continue to pay FICA taxes.

Without totalization, the combined Social Security tax rate that U.S. employers and employees working in foreign countries must pay often approaches 40% or more of total payroll. Under existing agreements, the annual foreign tax savings of U.S. workers and their employers total more than \$800 million. In contrast, the annual U.S. tax savings of foreign workers in the United States and their employers total only about \$200 million.

The US has totalization agreements with 20 countries, including Canada and most Western European countries.

MYTHS:

As I mentioned earlier, there has been a good deal of misinformation about totalization agreements in the media in recent months. Specifically, I have identified what I call “myths” about totalization agreements—largely related to Mexico—that have appeared in the media over the last few months. I want to specifically address each of these “myths”.

- *Myth #1: A totalization agreement with Mexico would change existing immigration policy.*

The truth is a totalization agreement does not address immigration laws. The Social Security Administration does not set immigration policy—and the totalization authority as passed by Congress in 1977 has nothing to do with immigration policy. A totalization agreement only deals with 1) Social Security payroll taxes and other employment-related taxes associated with work performed by U.S. workers hired in the U.S. and sent to work in a foreign country and foreign workers sent to work in the U.S. 2) workers with insufficient work credit earned to become eligible for full benefits in one or both countries.

- *Myth #2: One result of a totalization agreement with Mexico will be to begin to pay benefits to undocumented or illegal aliens.*

As is the case with our existing agreements, a totalization agreement with Mexico would not alter current law on this issue. Totalization agreements do not have any effect on the prohibition against payment of benefits to illegal aliens in the United States.

- *Myth #3: A totalization agreement with Mexico will cost the United States \$345 billion.*

\$345 billion is the approximate amount of total wages for all workers in the Earnings Suspense File (ESF) since 1937 and has no relationship to the cost of totalization agreements. SSA actuaries estimate the cost of a possible totalization agreement with Mexico to be \$78 million in its first year rising to \$138 million in its 5th year—for an average cost of \$110 million a year.

- *Myth #4: All of the earnings in the suspense file came from undocumented—or illegal—aliens.*

Earnings in the ESF represent wages we are not able to post to a specific individual's earnings record because the name and Social Security number do not match. Therefore, the suspense file is made up of all earnings that for whatever reason can not be credited correctly to a specific Social Security record.

Name and SSN mismatches can occur for a number of reasons including transcription or typographical errors, name changes due to marriage or divorce, and incomplete or blank name or SSN. While a portion of the ESF represents earnings by undocumented aliens, it also includes earnings from legal aliens and U.S. citizens.

- *Myth #5: Totalization agreements enable non-citizens who work in the United States for a very short period of time to receive full American Social Security benefits.*

False. Totalization agreements provide that the United States will pay pro-rated benefits to those workers who have: (1) between 6 and 39 quarters of coverage with the U.S. system; and (2) a combined work record of at least 10 years in the United States and a partner country. Again, I emphasize, the benefits are paid on a pro-rated basis.

WHY ENTER INTO TOTALIZATION AGREEMENTS

In 1977, Congress enacted the provisions that authorized the United States to enter into totalization agreements for two basic reasons:

- To ensure fairness and equity by providing social insurance for those who—because they have split their careers between the United States and another country—might otherwise end up with insufficient credits to become entitled to a benefit from either country.
- And to protect American workers and businesses involved in international trade and commerce from double taxation and thus enhance trade with foreign nations.

The United States has had a totalization agreement with Canada, our largest trading partner, since 1984. As you know, Mexico—our other NAFTA partner—and Japan are our second and third largest trading partners.

TOTALIZATION AGREEMENT WITH JAPAN:

SSA has been discussing the possibility of a totalization agreement with Japan for many years. Talks bogged down because Japan insisted that U.S. workers temporarily living in Japan pay into the Japanese national health insurance system (currently a tax equal to 8.5 percent of payroll and expected to more than double in the coming years). Negotiations with the Japanese Government were successfully concluded on August 1 of this year. I am happy to report that the United States obtained important concessions from the Japanese Government on a number of issues including an exemption for U.S. workers and their employers from paying into Japan's health insurance system. Following an internal legal review, I expect to transmit the draft agreement to the State Department by the end of this calendar year and would expect that it would be implemented sometime early in calendar year 2005.

TOTALIZATION AGREEMENT WITH MEXICO:

SSA has had informal discussions with Mexico over the last two years regarding a potential totalization agreement. Last year, I asked Deputy Commissioner Martin Gerry to visit Mexico with a team of senior SSA officials in order to determine whether Mexico was prepared to administer a totalization agreement.

The team met with counterparts in the Mexican government; was briefed extensively on Mexican social security operations, data collection and storage systems; and visited Mexican social security field offices. Based on this visit and on follow-up discussions, the team concluded that Mexico was prepared to administer a totalization agreement, including the ability to provide the records necessary for SSA to determine the eligibility of individuals to totalized benefits.

THE PROCESS AFTER AN AGREEMENT IS NEGOTIATED:

After a totalization agreement is negotiated, the first step is for SSA's General Counsel to review the draft agreement to ensure that it is fully consistent with American law. Second, the State Department reviews the draft agreement in terms of its consistency with overall American interests. If the draft is cleared by the State Department, and the White House, the agreement is then formally signed by representatives of the two governments.

The Secretary of State then transmits the signed agreement to the President who, in turn, transmits it to the Congress where it sits in review for 60 session days. Once the Congressional review is completed and the partner country has completed all of its necessary clearances, notes are exchanged between the two governments indicating their readiness to implement the agreement.

Typically, the agreement calls for it to take effect about 3 to 4 months following the exchange of notes; in practice most agreements have become effective about 12 months following submission to Congress. Congress has never voted to disapprove a totalization agreement.

COST OF THESE AGREEMENTS:

SSA's independent actuaries have produced estimates for each of these potential agreements based on assumptions of how each might look when drafted, including estimates of the number of individuals affected by each agreement and its cost impact on Social Security trust funds. Based on the actuary's estimates, over the first 5 years, U.S. workers and their employers would be relieved from paying \$134 million in taxes to Mexico and \$634 million in taxes to Japan. United States workers

and their dependents would be paid additional benefits because of the agreement in the amount of \$29 million from Mexico and \$130 million from Japan.

The cost impact on Social Security trust funds would be negligible over a 75-year period in both cases. Expressing the cost in this manner—"over a 75 year period"—is consistent with the manner in which the actuarial condition of the Social Security program is presented in the reports of the Social Security Trust Funds.

As I mentioned, the cost to the Social Security trust funds of a totalization agreement with Mexico would be \$78 million in its first year rising to \$138 million in its 5th year, an amount significantly lower than the current annual cost of our agreement with Canada (about \$200 million).

The costs of a totalization agreement with Japan are estimated to rise from \$82 million in year one to \$130 million in its 5th year—very similar to those estimated for Mexico.

CONCLUSION

I want to thank the Subcommittee for inviting me here today. I welcome the opportunity to clear up some of the misinformation that has been circulating about how totalization agreements work as well as the cost impact of totalization agreements.

I would be happy to answer any questions you may have.

Mr. HOSTETTLER. Ms. BOVBJERG.

STATEMENT OF BARBARA D. BOVBJERG, DIRECTOR, EDUCATION, WORKFORCE, AND INCOME SECURITY ISSUES, GENERAL ACCOUNTING OFFICE

Ms. BOVBJERG. Mr. Chairman, Members of the Subcommittee, thank you again for inviting me here today to discuss Social Security totalization agreements. Totalization agreements are intended to address Social Security tax and benefit issues across nations. And since 1977, as the Commissioner said, the United States has entered into 20 such agreements.

You have asked me here today to explain how these agreements work and, in particular, the potential impacts of such an agreement with Mexico. My testimony is in three parts: first, a description of the SSA's processes for developing the proposed agreement with Mexico; second, an explanation of how the agreement might affect benefits to Mexican citizens; and third, an assessment of the agreement's costs.

My testimony is based on our review of the available documentation associated with this and other totalization agreements and interviews with SSA and State Department staff. It is drawn from work in progress for the Chairs of the Judiciary Committee and the Subcommittee on Social Security, and that work will be completed at the end of this month.

First, the processes for developing the agreement. SSA officials told us that this process was informal and is the same as for prior agreements with other countries. The steps SSA took were not well documented, however, so we don't know a lot of detail about the work that SSA did to evaluate this particular agreement or the others before it.

What we do know is that senior officials visited Mexico for 2 days in August 2002, and during this visit, officials toured the Mexican Social Security facilities, observed Mexico's automated Social Security systems, and identified the types of data maintained on Mexican workers. Because totalization agreements, whether with Mexico or with other countries, represent a potential financial commitment with real implications for the U.S., a reasonable level of as-

assessment is necessary to protect against undue risk. However, SSA officials provided no evidence that they had examined key elements of Mexico's program, such as its control over the posting of earnings or its processes for obtaining key birth and death information. This is information that the U.S. would rely on in paying benefits; indeed, this relatively brief visit suggests only a limited review of the system's features.

Let me turn now to my second point, which is how the agreement would affect Mexican citizens. The agreement would increase the number of Mexican workers who would be paid U.S. Social Security benefits by making it easier for them to qualify for such benefits. Mexicans with fewer than 40 coverage credits in the U.S. will be permitted to combine their earnings recorded in Mexico with any U.S. credits that they have; and if the combined total equals the 40 credit threshold, they will receive at least partial benefits from the U.S. program.

In addition, totalization agreements generally override provisions in law that prohibit benefit payments to noncitizen dependents and survivors residing outside the U.S. This means that more Mexican workers' family members are likely to become eligible for benefits. Of course, all such potentially eligible workers and their families would have to provide documentation of their U.S. work, and that is something that could prove difficult if that work was unauthorized and if any of the Social Security credits were reported under false names or false SSNs.

Finally, let me turn to the question of cost. SSA has prepared a long-term actuarial estimate that suggests the cost of this agreement would not have a measurable impact on the Social Security trust funds. However, the assumptions on which the estimate are based are not directly related to the estimated millions of current and former unauthorized immigrants in Mexico. Instead, the estimate is based on the 50,000 people currently living in Mexico and receiving Social Security benefits from the U.S. This figure appears relatively small in comparison with the government estimates of about 5 million unauthorized Mexicans in the U.S. in the year 2000, and it is this population of unauthorized immigrants that makes estimating the agreement's costs so problematic.

According to SSA's sensitivity analysis, it would take only a 25 percent increase in the number of Mexican beneficiaries, only 13,000 more people, to have a measurable impact on the trust funds. Our analysis of prior agreements' costs suggests that a difference like this is common, given the difficulty of estimating agreements' costs. Past experience in the additional uncertainties inherent in this particular agreement seem to elevate the risks associated with any cost estimate.

In conclusion, though totalization agreements may bring economic and diplomatic benefits to the U.S., they also represent potential financial costs. An agreement with Mexico presents unique and difficult challenges because of long-standing unauthorized immigration and how little is known about that population, factors that could make this agreement far more costly than any other. Better information and more diligent evaluation of potential agreements would help, and we plan to make recommendations to SSA as we complete our work.

That concludes my statement, Mr. Chairman. I thank you for your attention. And I, too, am here to answer questions.
Mr. HOSTETTLER. Thank you, Ms. Bovbjerg.
[The prepared statement of Ms. Bovbjerg follows:]

PREPARED STATEMENT OF BARBARA D. BOVBJERG

GAO

United States General Accounting Office

Testimony

Before the Subcommittee on Immigration,
Border Security, and Claims, Committee
on the Judiciary, House of Representatives

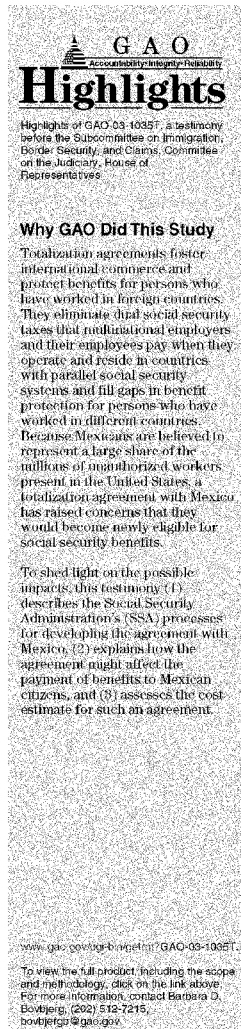
For Release on Delivery
Expected at 11:00 a.m. EDT
Thursday, September 11, 2003

SOCIAL SECURITY

Proposed Totalization Agreement with Mexico Presents Unique Challenges

Statement of Barbara D. Bovbjerg, Director
Education, Workforce, and Income Security Issues





September 11, 2003

SOCIAL SECURITY

Proposed Totalization Agreement with Mexico Presents Unique Challenges

What GAO Found

SSA has no written policies or procedures it follows when entering into totalization agreements, and the actions it took to assess the integrity and compatibility of Mexico's social security system were limited and neither transparent nor well-documented. SSA followed the same procedures for the proposed Mexican agreement that it used in all prior agreements. SSA officials told GAO that they briefly toured Mexican facilities, observed how its automated systems functioned, and identified the type of data maintained on Mexican workers. However, SSA provided no information showing that it assessed the reliability of Mexican earnings data and the internal controls used to ensure the integrity of information that SSA will rely on to pay social security benefits.

The proposed agreement will likely increase the number of unauthorized Mexican workers and family members eligible for social security benefits. Mexican workers who ordinarily could not receive social security retirement benefits because they lack the required 40 coverage credits for U.S. earnings could qualify for partial Social Security benefits with as few as 6 coverage credits. In addition, under the proposed agreement, more family members of covered Mexican workers would become newly entitled because the agreements usually waive rules that prevent payments to noncitizens' dependents and survivors living outside the United States.

The cost of such an agreement is highly uncertain. In March 2003, the Office of the Chief Actuary estimated that the cost of the Mexican agreement would be \$78 million in the first year and would grow to \$650 million (in constant 2002 dollars) by 2050. The actuarial cost estimate assumes the initial number of newly eligible Mexican beneficiaries is equivalent to the 50,000 beneficiaries living in Mexico today and would grow sixfold over time. However, this proxy figure does not directly consider the estimated millions of current and former unauthorized workers and family members from Mexico and appears small in comparison with those estimates. The estimate also inherently assumes that the behavior of Mexican citizens would not change and does not recognize that an agreement could create an additional incentive for unauthorized workers to enter the United States to work and maintain documentation to claim their earnings under a false identity. Although the actuarial estimate indicates that the agreement would not generate a measurable long-term impact on the actuarial balance of the trust funds, a subsequent sensitivity analysis performed at GAO's request shows that a measurable impact would occur with an increase of more than 25 percent in the estimate of initial, new beneficiaries. For prior agreements, error rates associated with estimating the expected number of new beneficiaries have frequently exceeded 25 percent, even in cases where uncertainties about the number of unauthorized workers were less prevalent. Because of the significant number of unauthorized Mexican workers in the United States, the estimated cost of the proposed totalization agreement is even more uncertain than in prior agreements.

United States General Accounting Office

Mr. Chairman and Members of the Subcommittee

I am pleased to be here today to discuss social security totalization agreements and specific issues related to a potential agreement between the United States and Mexico.

Totalization agreements foster international commerce and protect benefits for persons who have worked in foreign countries in two ways. First, the agreements eliminate dual social security taxes that multinational employers and their employees must pay when they operate and reside in countries with parallel social security programs. Second, the agreements help to fill gaps in benefit protection for persons who have worked in different countries for portions of their careers. Since 1977, the United States has entered into 20 totalization agreements.

Over the last year, the United States has been negotiating a totalization agreement with Mexico that has received considerable attention among the media and others regarding its potential impacts. Because Mexicans represent a large share of the millions of unauthorized workers present in the United States, a totalization agreement with Mexico has raised concerns that many such workers would become newly eligible for social security benefits at a time when long-term trust fund solvency is threatened. To shed light on the possible impacts of such an agreement, the Chairman of the House Judiciary Committee, and the Chairman of the House Ways and Means Social Security Subcommittee asked us to (1) describe the Social Security Administration's (SSA) processes for developing the proposed agreement with Mexico, (2) explain how the agreement might affect the payment of social security benefits to Mexican citizens, and (3) assess SSA's cost estimates for such an agreement.

To address these objectives, we reviewed existing totalization agreements and the laws governing them; interviewed and obtained key documentation from SSA, Department of State, and Mexican Embassy personnel; and reviewed a range of demographic data and estimates addressing Mexican immigration. We also examined SSA's actuarial cost estimates and supporting documentation for the proposed Mexican agreement. We conducted our work between January and August 2003, in accordance with generally accepted government auditing standards. My statement today is based on this completed work. Our final report with recommendations will be issued by September 30th.

In summary, SSA has no written policies or procedures outlining the specific steps it follows when entering into totalization agreements, and

the actions it took to assess the integrity and compatibility of Mexico's social security system were limited and neither transparent nor well-documented. SSA officials briefly toured Mexican facilities, observed how their automated systems functioned, and identified the type of data maintained on Mexican workers. However, SSA provided no information showing that it assessed the reliability of Mexican earnings data and the internal controls in place to ensure the integrity of information that SSA will rely on to pay social security benefits.

The proposed agreement will increase the number of Mexican workers and family members eligible for social security benefits. Workers who ordinarily could not receive benefits because they lack the required 40 coverage credits for U.S. earnings could qualify for partial Social Security benefits with as few as 6 coverage credits. Under the proposed agreement, more family members of covered Mexican workers would also become newly entitled because of the waiver of rules that prevent payment to noncitizens' dependents and survivors living outside the United States.

Finally, the cost of a totalization agreement with Mexico is highly uncertain. SSA's actuarial estimate states that the cost of a Mexican agreement would be \$78 million in the first year and would grow to \$650 million by 2050. The estimate assumes the initial number of newly eligible Mexican beneficiaries is equivalent to the 50,000 beneficiaries living in Mexico today and would grow sixfold over time. However, this proxy figure does not directly consider the estimated millions of current and former unauthorized workers and family members from Mexico and appears small in comparison with those estimates. Although the actuarial estimate indicates that the agreement would not generate a measurable impact on the trust funds, an increase of more than 25 percent in the estimate of initial, new beneficiaries would generate a measurable impact. For prior agreements, error rates associated with estimating the expected number of new beneficiaries have frequently exceeded 25 percent. Because of the significant number of unauthorized Mexican workers in the United States, the estimated cost of the proposed totalization agreement is even more uncertain than for the prior agreements.

Background

SSA administers the Old Age, Survivors, and Disability Insurance programs under Title II of the Social Security Act. About 96 percent of the nation's work force is in social security-covered employment and pays tax on their

annual earnings. When workers pay social security taxes, they earn coverage credits, and 40 credits—equal to at least 10 years of work—entitle them to social security benefits when they reach retirement age.¹

In 1977, the Congress authorized the President to enter into totalization agreements with other countries. These bilateral agreements are intended to accomplish three purposes. First, they eliminate dual social security coverage and taxes that multinational employers and employees encounter when they operate and their workers temporarily reside and work for the corporation, usually no more than 5 years, in a foreign country with its own social security program. Under the agreements, U.S. employers and their workers sent temporarily abroad would benefit by paying only U.S. social security taxes, and foreign businesses and their workers would benefit by paying only social security taxes to their home country. Second, the agreements provide benefit protection to workers who have divided their careers between the United States and a foreign country, but lack enough coverage under either social security system to qualify for benefits, despite paying taxes into both systems. Totalization agreements allow such workers to combine (totalize) work credits earned in both countries to meet minimum benefit qualification requirements. Third, most totalization agreements improve the portability of social security benefits by removing rules that suspend benefits to noncitizens who live outside the benefit-paying country.

By law, proposed agreements are sent to the Congress together with a report on the effects on the agreement. Under the statute, the agreement becomes effective on any date provided in the agreement after one House of the Congress has been in session 60 days, unless either House of the Congress adopts a resolution of disapproval.² Table 1 shows agreements in effect and the years they became effective.

¹Different requirements govern the number of coverage credits necessary to receive disability and survivors benefits for workers who become disabled or die with relatively short work careers.

²In 1983, the Supreme Court found that a provision in the Immigration and Nationality Act that allowed either House of the Congress to adopt a resolution of disapproval of a deportation decision was unconstitutional (*INS v. Chadha*, 462 U.S. 919 (1983)). To date, neither House of the Congress has ever disapproved a proposed totalization agreement. The effect of the *Chadha* decision on the part of the Social Security Act providing for totalization agreements has not been ruled on by the courts.

Table 1: Existing Totalization Agreements between the United States and Other Countries and Year of Effective Date of the Original Agreements

Countries	Year
Italy	1978
Germany	1979
Switzerland	1980
Belgium	1984
Norway	1984
Canada	1984
United Kingdom	1985
Sweden	1987
Spain	1988
France	1988
Portugal	1989
Netherlands	1990
Austria	1991
Finland	1992
Ireland	1993
Luxembourg	1993
Greece	1994
South Korea	2001
Chile	2001
Australia	2002

Source: SSA.

To qualify for totalized U.S. social security benefits, a worker must have at least 6 but no more than 39 U.S. coverage credits. Benefit amounts are based on the portion of time a foreign citizen worked in the United States and, thus, are almost always lower than full social security benefits. The average monthly, totalized social security benefit at the end of 2001 was \$162, compared with the average nontotalized monthly social security benefit of \$825. In 2001, SSA paid about \$173 million under totalization agreements to about 89,000 persons, including their dependents.

Under U.S. law, immigrants may not work in the United States unless specifically authorized. Nevertheless, immigrants often do work without authorization and pay social security taxes. Under the Social Security Act, all earnings from covered employment in the United States count towards earning social security benefits, regardless of the lawful presence of the

worker, his or her citizenship status, or country of residence. Immigrants become entitled to benefits from unauthorized work if they can prove that the earnings and related contributions belong to them. However, they cannot collect such benefits unless they are either legally present in the United States or living in a country where SSA is authorized to pay them their benefits. Mexico is such a country.

SSA's Process for Developing Agreements Is Not Thorough or Well-Documented

A lack of transparency in SSA's processes, and the limited nature of its review of Mexico's program, cause us to question the extent to which SSA will be positioned to respond to potential program risks should a totalization agreement with Mexico take place. SSA officials told us that the process used to develop the proposed totalization agreement with Mexico was the same as for prior agreements with other countries. The process—which is not specified by law or outlined in written policies and procedures—is informal, and the steps SSA takes when entering into agreements are neither transparent nor well-documented.

Current law does not prescribe how SSA should select potential agreement countries. According to SSA, interest in a Mexican agreement dates back more than 20 years. SSA officials noted that increased business interaction between the two countries due to the North American Free Trade Agreement (NAFTA) was a factor in the renewed negotiations. In addition, because there is a totalization agreement with Canada, our other NAFTA partner, SSA believed that equity concerns required consideration of an agreement with Mexico. In February 2002, SSA sought clearance from the Department of State to begin such negotiations.

The law also does not specify which elements of other countries' social security systems must be evaluated during totalization agreement negotiations. SSA officials met with Mexican officials to exchange narrative information on their respective programs. Senior SSA officials also visited Mexico for 2 days in August 2002. During their visit, these officials told us that they toured social security facilities, observed how Mexico's automated social security systems functioned, and identified the type of data maintained on Mexican workers. SSA took no technical staff on this visit to assess system controls or data integrity processes. In effect, SSA only briefly observed the operations of the Mexican social security program. Moreover, SSA did not document its efforts or perform any additional analyses then, or at a later time, to assess the integrity of Mexico's social security data and the controls over that data. In particular, SSA officials provided no evidence that they examined key elements of Mexico's program, such as its controls over the posting of earnings, and

its processes for obtaining key birth and death information for Mexican citizens. Nor did SSA evaluate how access to Mexican data and records is controlled and monitored to prevent unauthorized use or whether internal and external audit functions exist to evaluate operations.

Because all totalization agreements represent a financial commitment with implications for social security tax revenues and benefit outlays, a reasonable level of due diligence and analysis is necessary to help federal managers identify issues that could affect benefit payment accuracy or expose the nation's system to undue risk. Our Internal Control Management and Evaluation Tool provides a risk assessment framework to help federal managers mitigate fraud, waste, abuse, and mismanagement in public programs, such as social security. A key component of this framework is the identification of internal and external risks that could impede the achievement of objectives at both the entity and program levels. Identified risks should then be analyzed for their potential effect and an approach devised to mitigate them.

SSA did not conduct these types of analyses in previous agreements or in the case of the proposed Mexican agreement, despite documented concerns among Mexican government officials and others regarding the integrity of Mexico's records, such as those for birth, death, and marriage, as well as its controls over assigning unique identification numbers to workers for benefit purposes. Such information will likely play a role in SSA's ability to accurately determine Mexican workers' initial and continuing eligibility for benefits under a totalization agreement.

Totalization Agreements Will Increase Benefit Payments to Mexican Citizens

A totalization agreement with Mexico will increase the number of Mexican citizens who will be paid U.S. social security benefits in two ways. First, the agreement will make it easier for Mexican workers to qualify for benefits. Second, it will remove some nonpayment restrictions that affect benefit payments to non-U.S. citizens' family members residing in another country, thus providing U.S. social security benefits to more survivors and dependents of entitled Mexican workers.

Under current law, a worker must earn sufficient coverage credits to qualify for benefits under the U.S. Social Security program. For example, a worker who was born in 1929 or later generally needs 40 coverage credits to be insured for retirement benefits. Credits are based on a worker's annual earnings in social security-covered employment. At most, 4 credits can be earned per year so that it takes at least 10 years of covered earnings

in the United States for a worker to accumulate the necessary 40 credits and become insured for retirement benefits.

Currently, social security credits are earned by anyone who has worked in covered employment in the United States. This is true even if the person was unauthorized to work when he/she earned coverage credits. For example, noncitizens, including Mexicans, who are at least 62 years old and lawfully present in the United States, will receive retirement benefits today as long as they meet the coverage credit threshold. Even Mexican citizens who are not lawfully present in this country can receive social security benefits earned through unauthorized employment if they later return to live in Mexico. Similarly, under current law, noncitizen dependents and survivors can also receive social security benefits under some circumstances.

Totalization agreements generally expand benefits to both authorized and unauthorized workers and create new groups of beneficiaries. This would be the case for a totalization agreement with Mexico if it follows the same pattern as all prior totalization agreements. Mexican citizens with fewer than 40 coverage credits will be permitted to combine their annual earnings under their home country's social security program with their annual earnings under the U.S. Social Security program to meet the 40-credit requirement.⁹ In addition, more family members of covered workers will qualify for dependent and survivor benefits. Totalization agreements generally override Social Security Act provisions that prohibit benefit payments to noncitizens' dependents and survivors who reside outside the United States for more than 6 months, unless they can prove that they lived in the United States for 5 years in a close family relationship with the covered worker. If a totalization agreement with Mexico is structured like others already in force, the 5-year rule for dependents and survivors will be waived.

However, it is important to understand that not all unauthorized Mexican citizens who have worked in the United States will receive totalization benefits. Some will have earned at least 40 coverage credits and can receive social security benefits without a totalization agreement. Still others may have worked under false identities and may not be able to

⁹Under an agreement, U.S. citizens will also be able to receive totalized Mexican benefits. The amount of time needed to qualify for Mexican social security benefits is about 9.6 years under the former pay-as-you-go plan that closed in July 1997 and 24 years under the defined contribution plan that replaced it.

prove that they have the necessary coverage credits to be entitled to benefits. Others still may not accumulate sufficient credits under the Mexican social security system to totalize with their U.S. social security coverage.

Poor Data Undermine the Reliability of SSA's Cost Estimate

The cost of a totalization agreement with Mexico is highly uncertain. In March 2003, the Office of the Chief Actuary (OCACT) estimated that the cost of the Mexican agreement would be \$78 million in the first year and would grow \$650 million (in constant 2002 dollars) in 2050. SSA's actuarial cost estimate assumes the initial number of newly eligible Mexican beneficiaries was equivalent to the 50,000 beneficiaries living in Mexico today and would grow sixfold over time. However, this proxy figure is not directly related to the estimated millions of current and former unauthorized workers and their family members from Mexico and appears small in comparison to those estimates. Furthermore, even if the baseline estimate is used, a sensitivity analysis performed by OCACT shows that an increase of more than 25 percent—or 13,000 new beneficiaries—would produce a measurable impact on the long-range actuarial balance of the trust funds. Our review of cost estimates for prior totalization agreements shows that the actual number of beneficiaries has frequently been underestimated and far exceeded the original actuarial estimates.

Actuarial Estimates Are Based on Varied Data Sources

OCACT develops estimates of expected costs of totalization agreements by analyzing pertinent data from prior agreements, work visas issued, foreign corporations operating in the United States, and U.S. Census data. Because of extensive unauthorized immigration from Mexico, OCACT concluded that U.S. Census data, that would typically be used to estimate the number of new beneficiaries under an agreement, were not reliable.

Instead, OCACT used the number of fully insured beneficiaries—U.S. citizens and others living in Mexico—currently receiving U.S. social security benefits as a proxy for the number of Mexican citizens who would initially receive totalized benefits. The principal basis for this assumption was a 1997 study of Mexican immigration patterns conducted by a private nonprofit organization.¹ This study indicated that the percentage of Mexican immigrants who returned to Mexico after more than 10 years and,

¹Delinda I. Reyes, *Dynamics of Immigration: Return Migration to Western Mexico*, Public Policy Institute of California, January 1997.

therefore, could qualify for benefits is roughly equal to the percentage that returned after staying 2 to 9 years and would not have the required credits. Thus, OCACT assumed that the potential totalized initial new beneficiaries would be equivalent to the 50,000 persons currently receiving benefits in Mexico.

For the proposed Mexican agreement, both a short-term (covering the first 8 years of the agreement) and a long-term (covering 75 years) cost estimate were developed.⁶ The estimated cost to the Social Security Trust Funds would be about \$78 million in the first year of the agreement. For the long-term cost estimate, OCACT projected that the number of beneficiaries would ultimately increase sixfold to 300,000 over a 45-year period after the agreement took effect and equal about \$650 million (in constant 2002 dollars) in 2050. However, the actuarial analysis notes that the methodology was indirect and involved considerable uncertainty.

As a rough check on the reasonableness of using current beneficiaries in Mexico for its cost estimate, OCACT analyzed totalized beneficiary data for Canadian citizens because Canada, like Mexico, is a NAFTA trading partner and shares a large contiguous border. After determining the ratio of Canadians receiving totalized versus fully insured benefits, OCACT applied this ratio to the number of Mexican-born U.S. social security beneficiaries and found that about 37,000 beneficiaries would be expected under the agreement initially, if the Canadian experience proves predictive of the Mexican outcome. According to OCACT, this comparison increased its confidence that the assumed 50,000 new beneficiaries under the agreement was within a reasonable range.

Estimated Cost of Mexican Agreement Is Highly Uncertain

Limited data about unauthorized workers make any estimate of the expected costs of a Mexican totalization agreement highly uncertain. A significant variable of any totalization agreement cost estimate is the identification of the number of potential beneficiaries. Estimates of the number of unauthorized Mexican immigrants living in the United States

⁶For prior agreements with other countries, the OCACT developed only short-term estimates covering periods ranging from 1 to 5 years because it was determined that the number of expected beneficiaries were too few to have a measurable cost impact on the long-range actuarial balance of the trust funds.

vary.⁶ The federal government's estimate was published in January 2003 and comes from the former Immigration and Naturalization Service (INS).⁷ INS estimated that, as of January 2000, about 5 million, or 69 percent of all unauthorized immigrants in the United States, were from Mexico. INS's estimate also indicated that this figure was expected to increase by about 240,000 persons annually.

The INS estimate, however, does not include unauthorized Mexican workers and family members who no longer live in the United States and could also conceivably benefit from a totalization agreement. Economic disparity between the United States and Mexico has fostered longstanding immigration from Mexico to the United States dating back many decades. Various studies also show that fewer than a third of Mexican immigrants stay more than 10 years in the United States, the minimum amount of time needed to qualify for social security retirement benefits.⁸ For cost analysis purposes, little is known about the population of former immigrants who have returned to Mexico in terms of their age, work history, dependents, and social security coverage. These factors increase the inherent uncertainty of any long-range forecasts with regard to Mexico. It is under this backdrop that OCACT set about developing an estimate of the costs of the potential totalization agreement.

We have several concerns about OCACT's estimate of the number of expected beneficiaries and cost of an agreement with Mexico. First, the use of the 50,000 fully insured beneficiaries receiving benefits in Mexico as a proxy for individuals who might initially benefit from an agreement, does not directly consider the estimated millions of unauthorized Mexican immigrants in the United States and Mexico who are not fully insured and might receive totalized benefits. Furthermore, despite the availability of key data about earnings, work histories, years of employment, and dependents for the 50,000 fully insured beneficiaries, OCACT did not analyze this population to determine whether they represented a good

⁶For example, the Pew Hispanic Center estimated that there are between 3.4 and 5.7 million unauthorized Mexican citizens in the United States, and the Urban Institute has estimated that there are more than 4 million.

⁷In March 2003, INS functions were transferred to the Department of Homeland Security. Responsibility for deriving these estimates now lies with the Under Secretary Management, Office of Immigration Statistics.

⁸Reyes (1997), p. 13 lists several studies that document the temporary and circular nature of Mexican migration to the United States.

proxy for individuals likely to qualify for totalized benefits. The cost estimate also inherently assumes that the behavior of Mexican citizens would not change after a totalization agreement goes into effect. Under totalization, unauthorized workers could have an additional incentive to enter the United States to work and to maintain the appropriate documentation necessary to claim their earnings under a false identity. Thus, a large number of Mexican citizens have likely earned some social security coverage credits through both authorized and unauthorized work to meet the 40-credit threshold requirement and are not directly accounted for in SSA's estimate.

Second, SSA's reasonableness check using Canadian data faces similar questions. While Mexico and Canada are NAFTA partners and share a common border with the United States, there is a dramatic difference in the extent of unauthorized immigration from these two countries and, in our view, the Canadian experience is not a good predictor of experience under an agreement with Mexico. Recent INS data show that Mexican citizens account for about 69 percent of unauthorized U.S. immigrants, whereas Canadian citizens account for less than 1 percent, and all other totalization agreement countries combined account for less than 3 percent. It is this population of unauthorized immigrants that makes estimating the cost of a totalization agreement with Mexico particularly problematic.

Finally, even though SSA's actuarial analysis increases the number of beneficiaries sixfold over time, the expected 300,000 beneficiaries in 2050 represents only about 6 percent of the estimated number of unauthorized Mexicans in the United States today, and thus appears relatively low. Although it would be unreasonable to expect all unauthorized Mexicans in the United States to qualify for totalized benefits, the very large difference between estimated and potential beneficiaries underscores the uncertainty of the estimate and suggests that any difference between estimated and actual costs will be on the high side.

Indeed, it would take only a relatively small increase in new beneficiaries from the original actuarial assumption of 50,000 initial new beneficiaries to have a measurable impact on the long-range actuarial balance of the trust funds. OCACT has estimated that the agreement would not generate a measurable impact on the long-range actuarial balance. However, a subsequent sensitivity analysis performed at our request shows that a measurable impact on the long-range actuarial balance of the trust funds will occur if the baseline figure is underestimated by more than 25 percent—just 13,000 additional beneficiaries above the estimated 50,000 new beneficiaries.

Our analysis of past actuarial estimates of expected beneficiaries under totalization agreements shows that exceeding the 25 percent threshold has not been unusual, even in agreements where uncertainty about the number of unauthorized workers is substantially less.³ Our review of prior estimates shows that OCACT frequently either overestimated or underestimated the number of expected beneficiaries, usually by more than 25 percent (see table 2). In fact, where underestimates occurred, the differences were huge, involving several orders of magnitude. However, it is important to note that the number of estimated beneficiaries for prior agreements is substantially smaller than for the proposed Mexican agreement. Therefore, the differences in actual beneficiaries from estimated beneficiaries have a higher proportional impact. Furthermore, OCACT has not underestimated the number of expected beneficiaries for the agreements we analyzed since the 1991 agreement with Austria. Nevertheless, the numerous uncertainties and data gaps associated with the Mexican agreement elevate the risks associated with any cost estimate.

³OCACT staff told us that it would be best to look at precision of past estimates by comparing the estimated number of beneficiaries for the last year of the estimate with actual data for that same year. We were able to make this comparison for 11 countries.

Table 2: Precision of OCACT's Cost Estimates for 11 Prior Totalization Agreements

Country	Effective year of agreement	Beneficiaries		Percent actual beneficiaries is greater/(less) than estimated beneficiaries
		Estimated	Actual	
United Kingdom	1965	3,500	2,084	(40)
Sweden	1967	100	211	111
Spain	1968	300	377	26
France	1968	200	968	384
Portugal	1969	100	701	601
Netherlands	1990	100	310	210
Austria	1991	100	314	214
Finland	1992	100	38	(62)
Luxembourg	1993	40	12	(70)
Ireland	1993	1,100	515	(53)
Greece	1994	1,000	918	(8)

Source: GAO analysis of SSA data.

Note: Actual data were not available for years prior to 1987 so comparisons for six earlier agreements could not be made. Also, comparison could not be made for the three recent agreements.

Conclusions

Totalization agreements between the United States and other countries often foster enhanced diplomatic relations and provide mutually beneficial business, tax, and other incentives to employers and employees affected by these agreements. At the same time, they impose a financial cost to both countries' social security programs. SSA's processes for entering into these agreements have been informal and have not included specific steps to assess and mitigate potential risks. Regardless of the country under consideration, sound management practices dictate that SSA managers have a risk management process in place to ensure that the interests of the United States and the Social Security Trust Funds are protected.

Most totalization agreements have been with countries that are geographically distant to the United States, have developed economies, and represent only a fraction of the estimated unauthorized immigrants in the United States. Still, all agreements include some level of uncertainty, and require due diligence on SSA's part to alleviate those uncertainties. An agreement with Mexico, however, presents unique and difficult challenges for SSA because so little is known about the size, work history, earnings,

and dependents of the unauthorized Mexican population. Furthermore, a common border and economic disparity between the United States and Mexico have fostered significant and longstanding unauthorized immigration into the United States, making an agreement with Mexico potentially far more costly than any other. Thus, for the Mexican agreement, additional analyses to assess risks and costs may be called for.

A revised approach for entering into totalization agreements with all countries would enhance the quality of information provided to the Congress, which is tasked with reviewing these vital long-term commitments. A more thorough prospective analysis will also provide a better basis for determining whether agreements under consideration meet the mutual economic and business needs of all parties. Finally, current solvency issues require the Congress to think carefully about future trust fund commitments resulting from totalization agreements. Having more timely and complete information on the benefits, costs, and risks associated with each agreement can only serve to better inform their decisions.

Mr. Chairman, this concludes my statement. I would be happy to respond to any questions that you or other members of the Subcommittee may have.

For information regarding this testimony, please contact Barbara D. Bovbjerg, Director, Education, Workforce, and Income Security Issues, on (202) 512-7215. Individuals who made key contributions to this testimony are Daniel Bertoni, Gerard Grant, William Staab, and Paul Wright.

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Mr. HOSTETTLER. Mr. Mowbray.

**STATEMENT OF JOEL MOWBRAY, INVESTIGATIVE
JOURNALIST**

Mr. MOWBRAY. Thank you for inviting me to testify here today.

When news report about a pending totalization agreement with Mexico surfaced late last year, the cost of such a deal was said to be relatively low. The pact's supposed price tag of "just" hundreds of millions of dollars would be a pittance, the news report said, in an annual Federal budget that is measured in the trillions of dollars.

But the hundreds of millions of dollars figure, it turns out, is a pittance compared to how much a poorly structured totalization agreement with Mexico would actually cost taxpayers.

When I first analyzed the issue, the cost of totalization turned out to be as high as \$345 billion or more over the next two decades. The taxpayers could actually be on the hook for even more than that if fraud becomes rampant and is not reined in, a distinct possibility, looking at the current state of affairs, particularly in Social Security's disability insurance program.

Now, this is not to say that I oppose a properly structured totalization agreement with Mexico. I do not. Considerations of fairness alone dictate that a deal with Mexico would allow people who play by the rules and who legally split their careers between the two countries to avoid double taxation and receive fair compensation upon retirement.

This is the essence of totalization agreements that the U.S. has with some 20 other countries. Foreign workers in the U.S. or American workers in the foreign countries under the agreements pay just one Social Security tax and then receive a harmonized retirement benefit. The details of the pending deal with Mexico, however, need to be scrutinized very closely to ensure that such a pact does not become a boondoggle.

Today, people who work in the United States illegally can earn credits under the system, but can only receive Social Security benefits if they become legal residents or citizens. The totalization agreement, at least as it was initially structured with Mexico, would lift this requirement for illegal aliens from Mexico.

In a October 2002 Social Security Administration memo after stating current law, explains that illegal aliens would, in fact, be covered by a totalization agreement. Here is the relevant passage, quote, "Thus, regardless of a totalization agreement, Mexican nationals working illegally in the U.S. Can currently become entitled to benefits if they have made payments to the trust fund that meet the vesting requirements. The totalization agreement would include this population of the Mexican workers within the overall population of workers covered by the agreement."

That illegal aliens would be covered under totalization actually makes sense, inasmuch as they would seem to be covered unless explicitly excluded. As mentioned earlier, illegal aliens can already earn credits in the current law under the Social Security system while working in the U.S. Illegally. What they need to do in order to collect benefits, again is to become "normalized" under the law. Currently, the only way to do that is to become a legal, permanent

resident or a naturalized citizen. But if all Mexican citizens are able to take advantage of the U.S. Social Security system without first becoming U.S. residents or citizens, which is the essence of a totalization agreement, then simply being a Mexican citizen would make one who has worked in the U.S. illegally eligible to collect Social Security benefits.

So to keep Mexican illegals from receiving benefits under a totalization agreement, the pact would have to explicitly exclude Mexican nationals who worked illegally in the U.S. And have not become U.S. permanent residents or naturalized citizens. Otherwise, the floodgates would be opened.

Most mainstream estimates hold that there are anywhere from 7 to 11 million illegal aliens in the United States, more than half of which come from Mexico. The best indicator of how much Mexican illegals will receive is how much they have paid in Social Security taxes. Since 1990, the amount of Social Security taxes paid by illegal aliens has been increasing rapidly. More than \$300 billion has been paid under bogus Social Security numbers since that time. That figure is tracked by the earnings suspense file, which is an accounting of all Social Security taxes paid to fraudulent, bogus, or incorrect Social Security numbers. As of 2000, the ESF has \$345 billion in credits.

Although some of the taxes credited to the ESF, as the Commissioner noted earlier, come from clerical errors, most is the result of taxes paid on illegal aliens who do not provide employers with valid SSNs. Testifying before the Social Security and Immigration Subcommittees last September, Social Security Administration Inspector General Jim Hughes said that illegal work was, quote, "the primary cause," end quote, of the growth in the ESF over the past decade. So, this is not my contention; this comes from the Social Security Administration itself.

The empirical evidence suggests the same. As the illegal population in the U.S. has soared—the INS estimates the number of illegals has doubled from 1990 to 2000—so did the amount of taxes being credited to the ESF. SSA's own statistics show that the ESF has grown by a net of \$49 billion in the past year alone.

And I see that my time is up, but I will be available for further questions after this. Thank you.

Mr. HOSTETTLER. Thank you, Mr. Mowbray.

[The prepared statement of Mr. Mowbray follows:]

PREPARED STATEMENT OF JOEL MOWBRAY

When news reports about a pending "Totalization" agreement with Mexico surfaced late last year, the cost of such a deal was said to be relatively low. The pact's supposed price tag of "just" hundreds of millions of dollars would be a pittance in an annual federal budget that is measured in the trillions of dollars.

But the hundreds of millions of dollars figure, it turns out, is a pittance compared to how much a poorly-structured Totalization deal with Mexico could cost taxpayers. When I first analyzed the issue, the cost of Totalization appeared to be as high as \$345 billion—or more—over the next two decades. But taxpayers could actually be on the hook for even more money if fraud becomes rampant and is not reined in—a distinct possibility looking at the current state of affairs, particularly in Social Security's disability insurance program.

This is not to say that I oppose a properly-structured Totalization agreement with Mexico. I don't. Considerations of fairness alone would seem to justify a deal with Mexico that would allow people who play by the rules and legally split their careers between Mexico and the United States to avoid double taxation and receive fair

compensation upon retirement. This is the essence of “Totalization” agreements that the U.S. has with twenty other countries. Foreign workers in the U.S. or American workers in the foreign countries, under the agreements, pay just one Social Security tax and then receive a harmonized retirement benefit. The details of the pending deal with Mexico, however, need to be scrutinized very closely to ensure that such a pact does not become a boondoggle.

The negotiations with Mexico on a Totalization agreement first came to my attention late last year, as I was looking into other State Department issues. Multiple sources approached me with concern about the fine print of a pact that was being fast-tracked. Internal State Department and Social Security Administration (SSA) memos I obtained revealed that officials at those agencies were attempting to complete an agreement with Mexico in early 2003. One of those memos also validated the concerns of my sources, that illegal aliens from Mexico would become eligible for Social Security benefits under the terms being finalized.

Today, people who work in the U.S. illegally can earn “credits” under the system, but can only receive Social Security benefits for that period if they become citizens or permanent legal residents. The Totalization agreement—at least as it was initially structured—would lift this requirement for Mexican illegals. An October 2002 SSA memo, after stating current law, explains that illegal aliens would be covered by a Totalization agreement. Here is the relevant passage: “Thus, regardless of a Totalization Agreement, Mexican nationals working illegally in the U.S. can currently become entitled to benefits if they have made payments to the Trust Fund that meet the vesting requirements. The Totalization Agreement would include this population of Mexican workers within the overall population of workers covered by the Agreement.”

That illegal aliens would be covered under Totalization makes sense, in as much as they would seem to be covered unless explicitly excluded. As mentioned earlier, illegal aliens already earn credits under the Social Security system while working in the U.S. illegally. What they need in order to collect benefits based on those credits is to become “normalized” under the law. Currently, the only way to do that is to become a legal permanent resident or a naturalized citizen. But if all Mexican citizens are able to take advantage of the U.S. Social Security system without first becoming U.S. residents or citizens, then simply being a Mexican citizen would make one who has worked illegally in the U.S. eligible to collect Social Security benefits.

So to keep Mexican illegals from receiving benefits under a Totalization agreement, the pact would have to explicitly exclude Mexican nationals who worked illegally in the U.S. and have not become U.S. permanent residents or naturalized citizens. Otherwise, the floodgates would be opened.

Most mainstream estimates hold that there are anywhere from 7 to 11 million illegal aliens in the United States, more than half of which came here from Mexico. The best indicator of how much Mexican illegals will receive is how much they have paid in Social Security taxes. Since 1990, the amount of Social Security taxes paid by illegal aliens has been increasing rapidly. More than \$300 billion has been paid under bogus Social Security numbers (SSNs) since that time. The figure is tracked by the Earnings Suspense File (ESF), with is an accounting of all Social Security taxes paid to fraudulent, bogus, or incorrect SSNs. As of 2000, the ESF has \$345 billion in credits. Although some of the taxes credited to the ESF—which is an accounting file that contains no actual funds—come from clerical errors, most are the result of taxes paid on illegal aliens who do not provide employers with valid SSNs.

Testifying before the Social Security and Immigration subcommittees last September, SSA’s Inspector General Jim Huse said that illegal work was the “primary cause” of the growth in the ESF over the past decade. The empirical evidence suggests the same. As the illegal population in the U.S. has soared—the INS estimates the number of illegals doubled from 1990 to 2000—so did the amount of taxes being credited to the ESF. SSA’s own statistics show that the ESF grew by a net of \$49 billion in the year 2000 alone. As the years pass, the ESF will continue to grow—increasing the amount of money that would be paid out to illegal aliens as a result of the Totalization agreement. But this would cause severe damage to Social Security, since SSA’s number-crunchers are already projecting the collection of Social Security taxes from illegal aliens—but they’re not including in projections illegal aliens getting untold billions of dollars.

And because of the progressive nature of Social Security, the Totalization agreement would allow illegal aliens from Mexico to get back significantly more money than the taxes they paid. This could devastate the solvency of Social Security, adding the weight of several hundred billion dollars to a system that is already going to go into the red next decade.

Assuming no fraud—a big assumption—the Totalization agreement would still cost taxpayers an enormous sum of money. In an internal October 2002 memo, SSA estimated that the Totalization agreement would have a five-year price tag of \$336 million, with the annual cost being nearly \$100 million in the fifth year. But those estimates dramatically understate the number of workers who would qualify under the pact. A State Department memo states that SSA’s “Office of the Chief Actuary has projected that nearly 37,000 new claims will be filed during the first year of implementation. By the fifth year, that figure is projected to drop to 28,000 new claims.”

In other words, SSA estimated its cost projections assuming only 37,000 Mexicans total would sign up during the first year, decreasing to 28,000 new people added to the system in the fifth year, for a total of 160,000 people overall. But a Congressional Research Service report dated July 18, 2003, states that there are 4.2 million Mexican nationals currently working in the United States. Analyzing statistics provided by the Current Population Survey, Stephen Camarota of Center for Immigration Studies estimates that there are roughly 3.8 million illegal aliens from Mexico in the U.S. workforce. And that figure does not include the millions of Mexicans who have worked for a time in the United States, but who have since returned to their homeland. Considering the Mexicans currently working in the U.S. and those who have worked in the U.S. but now live in Mexico, the SSA estimate could be off by a factor of twenty or more. That would make the real cost of the Totalization agreement with Mexico, in the first five years alone, over \$6 billion. The cost of the deal for taxpayers will mushroom as more and more illegal aliens from Mexico reach retirement age.

The price tag of the deal could be even higher if work and residence requirements are modified or scrapped altogether. Under current law, someone must work for 10 years to qualify for retirement benefits under Social Security. The Totalization agreement, however, could lower that threshold to say, four years, meaning a Mexican citizen would only need to work in the U.S. for four years to become eligible for Social Security retirement benefits. Also under current law, spouses or dependents must live in the country with the worker for at least five years (during the time of employment in the U.S.) in order to qualify for benefits. The Totalization agreement, as originally structured, would eliminate that residency requirement.

The part of the Totalization agreement that could be the costliest, though, is fraud associated with Disability Insurance. According to many reports over the years, Social Security’s DI program is wracked with fraud. Making millions of illegal aliens from Mexico eligible to claim Social Security benefits without first becoming citizens or legal residents will only exacerbate the problem. The incentive to commit fraud will be great, too.

Consider the following hypothetical example of what could happen under the Totalization agreement. If a 24-year-old Mexican national who has worked illegally in the U.S. for three years is able to present documents from a friendly doctor and either a W-2 or pay stubs that indicate \$12,000 in annual earnings, he will be eligible for the following: nearly \$8,000 per year in disability income (adjusted for inflation), until age 65, at which point he would receive the same amount as retirement pay. (If he manages to get an under-the-table job in the U.S. or Mexico, he will be able to double-dip for a second income stream.) If he is survived by his wife or dependents, his family would be able to receive up to almost \$12,000 annually. If he dies at 60, and his widow lives to 85, U.S. taxpayers will be on the hook for nearly a half-million dollars. That’s for one worker brought into Social Security by the pact after three years of working illegally in the United States. (The ten-year requirement does not apply to disability insurance.)

The incentive for disability insurance fraud is strong, but the ability of SSA to prevent it is not. Because illegals, by necessity, must give employers phony Social Security numbers (SSNs), SSA allows people to claim benefits for work histories with different SSNs from the one presently used by the now-legal immigrant. This means that if someone named Fred Jones walks into a Social Security office with a green card in his name and a W-2 for someone named Joe Smith, the SSA employee would likely allow Mr. Jones to claim benefits based on the work history of “Joe Smith.” But according to government sources, SSA does not track which work histories have been claimed for benefits—so someone could recycle W-2s or pay stubs used by someone else the week before, and SSA would be none the wiser. SSA only checks to make sure two different people aren’t using the same current number while receiving benefits, not which numbers were used to claim the benefits.

Regardless of fraud, though, the central point remains that including illegal aliens in a Totalization agreement would cost taxpayers hundreds of billions of dollars over time. I am an avid free-trader and I agree that we need strong relations with Mexico, but giving billions of dollars to illegal aliens is not the answer. A deal with Mex-

ico that rewards those who play by the rules and explicitly excludes illegal aliens can—and should—be struck. Allowing millions of illegal aliens from Mexico to collect hundreds of billions of dollars would not just reward illegal behavior, but more important, it would wreak havoc on the already-beleaguered Social Security system. That is something we can ill-afford.

I would be happy to answer any further questions you may have.

Mr. HOSTETTLER. Mr. Apfel.

STATEMENT OF KENNETH S. APFEL, LBJ SCHOOL OF PUBLIC AFFAIRS, THE UNIVERSITY OF TEXAS AT AUSTIN

Mr. APFEL. Mr. Chairman, I am very pleased to have the opportunity to testify before the Subcommittee today. From 1997 to 2001, I served as the Commissioner of the Social Security Administration, and late in my term I directed Social Security staff to open up serious discussions with the U.S. State Department and the Mexican Government to assess the full implications of establishing a totalization agreement with Mexico. I understand that work has continued on this endeavor under the direction of Commissioner Barnhart and her excellent staff.

By way of background, work on totalization agreements has generally been nonpartisan in nature with negotiations spanning both Republican and Democratic administrations. As examples, agreements which became effective during the Bush administration with South Korea and Australia and Chile were negotiated in part during the Clinton administration, and agreements which became effective during the Clinton administration with Ireland and with Greece were negotiated, in part, during the first Bush administration.

Why do I believe that a totalization agreement with Mexico is in the best interest of the United States? Four reasons:

One, fairness to workers and employers. For the sake of the workers and employers doing business and working in other countries, we need to eliminate double taxation and establish a framework to blend benefit coverage. Currently, many workers pay both U.S. and Mexican Social Security taxes, and many are not eligible for benefits or for reduced benefits. It is not fair to workers, it is not fair to their employers.

Second, strengthening our interconnected economies. The U.S. is increasingly connected to Mexico. U.S. trade policy is consistent, in terms of NAFTA. Totalization agreements could also facilitate the growing trend toward economic interdependence. In the future, more American workers will spend part of their years in the labor force working outside of the United States and more foreign workers will be working in the United States. Just as we have established an agreement with our neighbor to the north, Canada, we should do so with our neighbor to the south. These are indeed our two largest trading partners.

Third, we now have the technical capabilities to establish an agreement with countries such as Mexico. Early totalization agreements were entered into with countries that had social insurance systems that are more aligned with U.S. systems, but there has been work done, excellent work by the Social Security Administration, to establish systems with Chile and South Korea. The Mexican system is similar in many respects to the system of Chile. So, with the Mexican Social Security system similar to Chile, we ought

to be able to work out the details with a country such as Mexico, as we have with Chile.

Fourth, the costs of such an agreement with Mexico are manageable. There will likely be added costs to the U.S. if we entered into a totalization agreement with Mexico, but the long-term costs of such an agreement to Social Security are modest—it is likely that an agreement with Mexico would have a negligible long-range effect on the Social Security trust fund. And I also do not believe that each and every agreement that we enter into must be a cost winner to the United States and a cost loser for other countries.

Key point: The 20 totalization agreements that are now in effect are a net gain to the United States of hundreds of millions of dollars a year. And while an agreement with Mexico would increase U.S. costs, these added costs would only amount to a fraction of the net gains from our other 20 totalization agreements.

Lastly, I know that there are concerns that establishing a totalization agreement with Mexico would somehow change our immigration laws or allow undocumented immigrants to get Social Security benefits. A totalization agreement with Mexico would not authorize payments to undocumented workers. Indeed, none of the 20 totalization agreements now in effect altered our immigration laws or provided benefits to undocumented workers. I am sure that the U.S. continues to have bilateral discussions regarding legal and illegal immigration with a number of countries that have totalization agreements, such as Ireland or Korea; but to the best of my knowledge, immigration issues did not dominate the internal discussions or the U.S. debate on these totalization agreements. And I certainly hope that immigration issues do not undermine support for this valuable agreement with Mexico.

In closing, it is my sincere hope that the negotiations between the United States and Mexico lead to a totalization agreement that moves us one step closer to strengthening worker protections, eliminating duplicative taxes, and fostering economic growth.

Thank you for this opportunity to testify before you today.

Mr. HOSTETTLER. Thank you, Mr. Apfel.

[The prepared statement of Mr. Apfel follows:]

PREPARED STATEMENT OF KENNETH S. APFEL

Mr. Chairman, I am very pleased to have this opportunity to testify before this Subcommittee today on an important issue that I understand is receiving considerable attention by the US government—the possible establishment of a “totalization agreement” between the United States and Mexico to coordinate Social Security benefits and taxes between the two countries. The United States has established similar agreements with 20 other countries, and I believe there is much merit in establishing such an agreement with Mexico.

From 1997 to 2001, I served as the Commissioner of the Social Security Administration. Late in my term, I directed the Social Security staff to open up serious discussions with the US State Department and the Mexican government to assess the full implications of establishing a totalization agreement with Mexico. I understand that work has continued on this endeavor under the direction of Commissioner Barnhart and her excellent staff. According to press accounts, a totalization agreement may be nearing fruition.

By way of background, the Social Security Act authorizes the President to enter into totalization agreements with other countries. The process is often a very complex and lengthy one. Work on totalization agreements has generally been non-partisan in nature, with negotiations spanning both Republican and Democratic administrations. As examples, agreements signed by the Bush administration in 2001 with South Korea and Chile were both negotiated in part during the Clinton administra-

tion, and agreements signed in 1993 by the Clinton administration with Ireland and Greece were both negotiated in part during the first Bush administration.

What are the purposes of these international agreements? First, the agreements eliminate dual Social Security taxation, which saves workers and their employers from having to pay duplicative taxes. Often, an individual working overseas has to pay his or her home country's Social Security taxes as well as the Social Security taxes imposed by the foreign country. This imposes steep costs on both employees and employers. And second, the agreements help to fill gaps in benefit protection for individuals who have worked parts of their careers in the US and part in another country, but who haven't worked enough in either or in both to qualify for benefits. Workers may combine earnings credits to qualify for benefits under either or both systems, with benefits prorated to reflect the number of years that workers paid into each system.

Frankly, there would not be much of a need for totalization agreements in a world where each nation relied on itself for all of its goods and services. But that certainly doesn't describe the United States or the rest of the world in the 21st Century. Workers move with growing frequency, as do markets. In an increasingly interdependent and interrelated world, the need for totalization agreements only grows.

Why do I believe that a totalization agreement with Mexico is in the best interests of the United States? Four reasons:

- First, fairness to workers and to employers. For the sake of workers and employers doing business and working in other countries, we should eliminate double taxation and establish a framework to blend benefit coverage. Currently, many US workers pay both US and Mexico Social Security taxes and many are eligible to receive only limited coverage based on their years of payments into the systems. That's not fair to workers or their employers.
- Second, strengthening our interconnected economies. The US economy is increasingly interconnected with Mexico, and US policy—I think correctly—is aimed at expanding trade and opportunities between our countries. NAFTA is certainly one important way to strengthen these ties, but other steps can be taken to strengthen ties. Totalization agreements also serve to facilitate the growing trend toward economic inter-dependence. In the future, more American workers will spend part of their years in the labor force working outside of the United States. And more foreign workers will be working in the US. Just as we have established an agreement with our neighbor to the North—Canada—we should now do so with our neighbor to the South. Indeed, Mexico and Canada are our two largest trading partners.
- Third, we now have the technical capabilities to establish an agreement with countries such as Mexico. Early totalization agreements that were entered into in the late 1970's and 1980's were established with nations that had Social Security systems very similar in design to the US system—in countries such as Germany and France. But more recent work by Social Security Administration staff has proven that totalization agreements are also workable with countries that have social security systems that are considerably different than the US system. Chile and South Korea have adopted, to a greater or lesser extent, a "privatized" social security system, and the US has established agreements with both countries. The Mexican social security system is similar in many ways to the Chilean system. Since we have been able to work out the complex details with countries such as Chile, we should now do so with Mexico.
- Fourth, the costs of such an agreement with Mexico are certainly manageable. There will very likely be added costs to the US if it entered into a totalization agreement with Mexico, but the long term costs of such an agreement to Social Security are modest—it is likely that an agreement with Mexico would have a negligible long-range effect on the Social Security Trust Fund. And I do not believe that each and every agreement that we enter into must be a cost "winner" for the US and a cost "loser" for the other country. The twenty totalization agreements that are now in effect are a net gain to the United States of hundreds of millions of dollars a year, and while an agreement with Mexico would increase US costs, these added costs would only amount to a fraction of the net gains from our other twenty agreements.
- Lastly, I know that there are concerns that establishing a totalization agreement with Mexico would somehow change our immigration laws or allow undocumented immigrants to get Social Security benefits. A totalization agreement with Mexico would not authorize payments to undocumented workers. Indeed, none of the twenty totalization agreements now in effect altered our

immigration laws or provided benefits to undocumented workers. I am sure that the United States continues to have bilateral discussions regarding legal and illegal immigration with a number of countries that have totalization agreements, such as Ireland and Korea; but to the best of my knowledge immigration issues did not dominate the internal discussions or the US debate of these totalization agreements. I certainly hope that immigration issues do not undermine support for this valuable agreement with Mexico.

Before closing, I should point out that I have not seen any of the specific terms and language or the particular points of contention relating to the Mexico totalization agreement. I have not discussed the negotiations with anyone within the US or the Mexican governments, and I would not consider it appropriate for me to comment at this time on the specifics or to second-guess what the specific terms of an agreement should look like. I understand that these negotiations are often lengthy and very complex and it is impossible to "handicap" the agreement without an understanding of all issues. But this I can and will say: it is my sincere hope that at the conclusion of these negotiations that the US and Mexico will establish a totalization agreement that moves us one step closer to strengthening worker protections, eliminating duplicative taxes and fostering economic interdependence.

Thank you for this opportunity to testify before you today.

Mr. HOSTETTLER. We will now move into a round of questions by Members of the Subcommittee for 5 minutes, beginning with the Chair.

Ms. Barnhart, are you satisfied with the cost estimates prepared by your actuary for the Mexico totalization agreement?

Ms. BARNHART. Our actuary went through several iterations, Mr. Chairman, recognizing how important this issue was in considering an agreement with Mexico; and I feel very confident in the ability of our actuaries to make accurate projections.

If you look over the history of our actuaries' experience in projecting costs of totalization agreements, what you would find is that for the agreements that we have done in the last 10 or 12 years, they have been within 3 percent in the aggregate of estimating the number of individuals that would participate in totalization agreements, and I think that is an impressive accomplishment.

I was very much aware of the way that they did their estimates. They used the best available information that we have, using their best judgment. And I would point out that the actuaries are independent actuaries whom we entrust with the responsibility for determining each year the status of the Social Security trust funds for the Social Security board of trustees and the American people. So I think they are eminently well qualified to make a determination about totalization agreements.

Mr. HOSTETTLER. Thank you.

Ms. BOVBJERG, the actuaries' office used the numbers from the totalization agreement with Canada to estimate the number of initial beneficiaries under the agreement with Mexico. INS said back in January, as I said earlier, that there are roughly 5 million illegal Mexican workers at present in the U.S. .

Has Canada ever had, to your knowledge, a large number of illegal workers here that can benefit under a totalization agreement, to the best of your knowledge?

Ms. BOVBJERG. Well, of course, the issue with a lot of this is, there isn't great knowledge out there about how many people are undocumented. What I understand to be true is that the percentage of the 7 million unauthorized people in this country is in the single digits from Canada, whereas it is almost 70 percent from Mexico.

I mean, we understand that the U.S. and Canada have a common border and, like Mexico, Canada is our trading partner through NAFTA, and so there are some similar reasons to want to apply similar types of agreements to the two countries. But the economic relationships are, of course, quite different.

Mr. HOSTETTLER. And let me just say, from the Chair's point of view, that a totalization agreement with Mexico, I think, is very appropriate and necessary. The concern that this Subcommittee has is with regard to the impact on immigration.

Without immigration, there would not be a need for a totalization agreement. So immigration is at the foundation for all totalization agreements. The people come here to work, citizens from the United States go to other countries to work. And so it is fundamentally a question of immigration.

Mr. Mowbray, you are an investigative writer, but I understand you once worked on the Hill and have an in-depth knowledge of Social Security issues. Would you offer your opinion on how senior citizens receiving Social Security retirement and those people now approaching retirement will react to this totalization agreement with Mexico and the potential that illegal immigration would have on that agreement?

Mr. MOWBRAY. Well, I don't have to speculate, actually, because I was deluged with e-mails and handwritten letters. Senior citizens are the only ones who still do that; and they were furious.

And, again, a properly structured deal, I think, as you and I both agree, would be fine; but the problem is, this is not. And as you said, the impact on immigration policy doesn't actually change the policy. What it does is, it creates a greater incentive for people to come here illegally, because if they can come here illegally, work for 5 years—or not even work for 5 years, but have W-2s that say they worked here for 5 years—and then go back down to Mexico; having never become legal or normalized under U.S. law, they could then collect U.S. Social Security benefits down in Mexico.

And a huge problem—and I didn't get into this in my oral testimony—is with fraud, which ramps up the incentive if it is not reined in, because at present, according to government sources with knowledge of this, the Social Security Administration does not keep track with which work histories are claimed. So someone named Fred Smith could walk in with, say, Joe Jones's W-2s, could submit them and say, Well, you know, because illegal aliens, by definition, are undocumented at the time they are working, they don't usually work under their actual names or real numbers; so the Social Security Administration does have to accept people who earn credits under different names if you have people who were illegal under present law who earn credits.

But the problem is, I could walk in the next day with the same set of W-2s and the same paperwork and get benefits under my name, and the Social Security Administration would be none the wiser because they do not track which work histories have been claimed; they only track which people are receiving benefits.

Ms. BARNHART. Mr. Chairman.

Mr. HOSTETTLER. Ms. Barnhart, you have a desire to respond?

Ms. BARNHART. Yes. I feel compelled to interject at this point in time.

Mr. Mowbray wasn't here when I gave my opening statements, and in my opening comments—and some of the information he included in his opening statement referred to the earnings suspense file and represented a misunderstanding of that because it referred to the \$345 billion as taxes that were paid.

As I pointed out in my statement, \$345 billion is the amount of wages that are paid, not taxes. And so it is not a pot of money that anybody is going to get the \$345 billion; And I feel that is important, particularly in light of comments that he just made.

The fact of the matter is, the reason that the earnings suspense file exists, the \$345 billion, is precisely because we do what we call "unscramble earnings" when people bring in their W-2s and their history of work. And then, quite contrary to Mr. Mowbray's understanding of the situation, the issue is that an individual must bring in a W-2, prove in fact that they are that person, that it is their Social Security number, and then we actually go into the earnings suspense file and remove those earnings from that particular—from that particular—where they are recorded, and post them to that individual.

Actually, it is because that we go into meticulous detail and have quite an elaborate process for ensuring that wages are credited appropriately that we have such a large earning suspense file. It is the difficulty inherent in unscrambling them because of the procedures that we go through.

So I really felt that is very important to make that point, because what you just suggested is that people sort of willy-nilly come in and claim they work for this place and that place and we absolutely post to their account. Absolutely not the situation.

First of all, the wages are reported by the employer, and we would match whatever W-2 an individual brings in to the postings that were done based on the employer's report.

Mr. MOWBRAY. If I may respond, Mr. Chairman.

Mr. HOSTETTLER. We are not going to be debating—

Mr. MOWBRAY. I know and I understand. Just a few quick points.

As for the earnings suspense file, I understand what the Commissioner is saying, but I am basing my understanding of this primarily upon what the Inspector General of the SSA said about this issue, which is that the primary source of the growth in the earnings suspense file, particularly since 1990—and it tracks perfectly statistically with the growth in illegal immigration.

So I do understand that you do have other reasons for it, but the primary source—again, not my words, the Social Security Administration's words—comes from the growth in illegal immigration. And one of the things I have often found investigating government is not that the policies are the problem but the implementation or the enforcement of those policies.

So I understand what the Commissioner says about the policy of unscrambling and going in and pegging work histories and removing from the earnings suspense file. The problem is, according to government sources with knowledge of this, with intimate knowledge of this, this in fact is not the practice. That is the problem. And any number of independent people who have looked at Social Security—this is a problem since when I was on the Hill and still remains today. Disability insurance is rife with fraud, and that

would not change when you open up the floodgates of people who do not even have to prove they are normalized under U.S. Law who then could collect. So we have a wider number of people who would be able to commit fraud easier than they would today. That is the problem.

Mr. HOSTETTLER. The Chair now recognizes the gentleman from Arizona for 5 minutes.

Mr. FLAKE. I thank the Chair and thank the panelists.

Getting back to this earnings suspense file, \$345 billion or so in there since 1990?

Mr. MOWBRAY. Most of it—

Ms. BARNHART. Excuse me. The earnings suspense file was created in 1937, and it was created because all earnings could not be posted due to a mismatch between the name and Social Security number for a number of reasons I mentioned—divorce, marriage, whatever. And it is true—absolutely, it is true that undocumented workers contribute to the earnings suspense file, but the \$345 billion since 1937, it is not taxes paid, it is the wages that the individuals earned that we were unable to post against—

For example, if Ken Apfel earned \$10,000 and Mr. Mowbray earned \$5,000 and Ms. Bovbjerg earned \$20,000 but for whatever reason we were unable—the Social Security number submitted for each of them were not—Mr. Mowbray is making a point to the fact that I gave him only \$5,000.

I assure you that has nothing to do with the issues that you have been discussing here.

Mr. MOWBRAY. No, you have made it sound accurate, and you are—

Ms. BARNHART. The situation is those wages need to be posted so that when they retire we can go back and look at their earnings history and calculate the benefit. They pay a percentage, 12.4 percent, between the employer-employee of that in taxes.

Mr. FLAKE. So the 345 is wages paid, not how much is accrued in the Social Security trust fund?

Ms. BARNHART. That is correct. In fact, if you look at that number, sir, it is about \$51 billion in the old age and survivor and disability insurance fund since 1937.

Mr. FLAKE. How much of that is since 1990?

Ms. BARNHART. Since 1990, I could actually probably provide that for you or come very close. Let us see.

Mr. FLAKE. Rough estimate.

Ms. BARNHART. I am looking at it here. Well, let us see. Since 1990, it is a large amount; and I would be happy to have someone calculate while we are sitting here and give it to you later.

Mr. FLAKE. Provide it at the end of the hearing.

Ms. BARNHART. What I have is by year the amounts, but I could give it to you by the end of the hearing or give it to my staff and have them look at it now and add it so we can get it.

Mr. FLAKE. That would be great.

A follow-up question on that. If an individual pays into a fraudulent account or a different Social Security account, they then become a legal citizen, LPR and then citizen, whatever. Is there any way for them to go back and say, well, these taxes were paid under

this number? Would they have claim to credits paid on the basis of that? I think that is the relevant question here.

Ms. BARNHART. Maybe it would help if I explained the situation today as current law stands.

The Social Security and the IRA statutes provide that wages that are paid to people and cover employment, meaning covered by Social Security, are subject to payroll taxes, and we are to consider those wages in determining an individual's benefit into Social Security. Until 1996, the statute was silent on the issue of immigration status as it related to payments. There was no mention of one's status. In 1996, Congress established the requirement that to receive benefits in the United States a person must be lawfully present to receive benefits; and the Attorney General provided to the Social Security Administration at that time a list of the law statuses or whatever, for lack of a better word, that would qualify and meet that requirement. As a result, when an individual comes in to apply for Social Security benefits in our district offices all over the country we do make them prove their lawful status at that point in time before processing the benefit.

Mr. FLAKE. My question is, can they receive—do they receive any credits if it can be determined that they actually paid into a fraudulent account and they say, well, I actually paid into that account; I should get credits based on what I paid into a fraudulent account?

Ms. BARNHART. When you say a fraudulent account, are you talking about a Social Security number that is a fraudulent Social Security number or that they are undocumented workers?

Mr. FLAKE. Well, I am assuming that they were undocumented and in order to keep a job or to get a job they gave a false Social Security number.

Ms. BARNHART. One of the things that makes this such a really difficult and complicated area—and you are really hitting all the right points here in your questions, obviously—is that nothing is quite so clean and simple as that. In fact, many people who come into this country, their status changes. They may come in with a legal status and their visa or their work—their ability to work legally may expire. So during the time they have the legal ability to work they get a Social Security number and they pay into—they and their employer pay into the system. When it expires, we have no way of knowing that.

Further, employer's report wage information only annually, once a year. So let us say someone came in and they were here for 5 years working legally and in March it expired. We have no way of knowing that it expired, and the employer certainly when they report the wages don't report that the person was legal through March and then became illegal.

It can work the opposite way, obviously, too. People come in legally. They get Social Security numbers for nonwork purposes. They go to work. They pay into the system, and then they become legal after that.

Mr. FLAKE. My time is up, but it would seem that the questions that the other panelists raised about the accuracy of the estimates going forward are really in question here then. We don't have time, but if you could submit to my office answers to those questions.

Take a few scenarios—I realize it may take a few, but the ones that I have asked, those are important, and those could take the figures one way or another quite a ways.

Ms. BARNHART. I would be happy to do that.

Mr. MOWBRAY. Mr. Flake, I do have—the percentage of the accrued amounts in the earnings suspense file since 1990 is over 85 percent of the total. So it is the vast majority. And that—I am basing, actually, the table I received from the Social Security Administration.

Ms. BARNHART. Let me say I have the table, and we have just done an the calculation, and it is actually two-thirds of the amount through 2001, not 85 percent. I have the exact numbers right here that were posted each year.

Mr. MOWBRAY. I have the table as well, so—

Ms. BOVBJERG. May I jump in? This is not a substantive jump-in, but I just wanted to say that we have work under way for the Judiciary Committee on the earnings suspense file. We suspended it briefly to turn to the totalization question, but we will be back to it shortly and will be looking at some of the questions about the size and the rate of growth and numbers that are used repetitively.

Mr. FLAKE. It seems very much related to the totalization.

Ms. BOVBJERG. Yes, it does. That is why that team was working on this.

Mr. HOSTETTLER. With unanimous consent, the Chair recognizes the gentleman, Mr. Apfel, to respond.

Mr. APFEL. Thank you, Mr. Chairman.

I just wanted to make a point about the actuaries' estimates. There is always uncertainty in estimates, but there is enormous respect throughout Washington to the deep knowledge they have in these areas and the nonpartisan nature of their assessments.

I point out just a key fact to think about in this estimate. There are about 60,000 Canadians now living in Canada getting Social Security insured benefits. In other words, they have worked about 10 years, fully 10 years to get the full Social Security benefit, 60,000, and about 34,000 receive totalized agreements, which means they spent less than 10 years working in the U.S. So it is a subset. It is a smaller number than those that have been here for over 10 years.

In Mexico today, there are about 50,000 Mexicans living in Mexico receiving insured benefits, and the estimates are quite a bit higher, somewhere around 50,000, with considerable growth predicted in the future.

From looking at those assessments—and I spent some time the last couple of days looking through this, and I have spent a fair amount of time over the years working with the actuaries—it seems to me that those are very realistic, pragmatic estimates based upon the best information available; and it could be 20 percent or so higher, which is what GAO also looked at, about whether there was a 25 percent bound to those estimates. It might be 25 percent higher. Maybe it is 25 percent lower.

But all in all I just wanted to point out that the scrupulous work that they do—and when we start seeing \$350 billion numbers, it tends to cloud what is considered to be exceptional work to try to arrive at the overall costs.

Mr. HOSTETTLER. Thank you, Mr. Apfel.

The Chair now recognizes the gentlewoman from Texas, Ms. Jackson Lee, for 5 minutes for questions.

Ms. JACKSON LEE. First of all, as I said, there is a shiny lining—I was trying to get my metaphors together—silver lining, because I think it is important to recognize that some process is occurring and it can—may be somewhat broken if you are doing a double taxation, and there is a sense of ability to regulate this process. So I would like the Commissioner to—and I thank you very much for visiting me in Houston and being a problem solver there, and we are going to call you back.

Ms. BARNHART. Thank you.

Ms. JACKSON LEE. If as you engage in this totalization agreement with Mexico and you are in negotiations, can you assure us that no immigration laws will be changed?

I might add my additional footnote and that is the interest of the administration to work with Congress and to be sensitive to legislating and changing immigration laws through this treaty process and indicating today that that would not occur or you would not be working to change immigration laws.

Ms. BARNHART. Yes. Thank you very much for that question. Because the fact of the matter is I would have no authority under the law as constituted by the Congress to change immigration laws, as I said in my statement; and I appreciate having this opportunity to emphasize that fact. Totalization agreements have never affected immigration laws.

We do not have the authority. The totalization statute is actually in the Social Security Act, not in the immigration statute. So, therefore, I can assure you that any totalization agreement that would be designed with Mexico would not include anything to do with immigration. It would be focused solely on the issue of making sure that individuals who have split earnings in their careers in different nations would be able to receive benefits from each of the nations.

Secondly, with regard to your concern about working with Congress, perhaps it would be helpful if I just spent a moment to describe the approval process for totalization agreements.

If we move to formal negotiations with Mexico and actually craft a totalization agreement, the process calls for me, as the Commissioner of Social Security, to notify the State Department and transmit it to them, the State Department to review it, transmit it to the President, and then the President to transmit it to the Congress where it must stay for 60 days of session in either House before it goes into effect. The Congress during that 60 days of session days, 60 session days, has the opportunity, either House, to vote on the agreement.

If you look at what has happened over time—anticipating that there would be interest in what an approval process would look like, I asked my staff to give me some information related to how long such approvals have taken in the past—and in an average of 5 months the agreements have sat before Congress in order to meet that 60-session-day requirement, and Congress has never voted to disapprove the totalization agreement.

Ms. JACKSON LEE. I thank you. My time is short, but I appreciate the process.

Let me quickly ask, is Medicare included in this?

Ms. BARNHART. No, Medicare is absolutely not.

Ms. JACKSON LEE. And are you comfortable with your cost estimates?

Ms. BARNHART. I am very comfortable with our cost estimates.

Ms. JACKSON LEE. So, in essence, my opening remarks suggesting that the suspense fund has many, many dollars for many, many different reasons and not necessarily all totally attributable to a relationship that might be established with the totalization agreement, is that correct?

Ms. BARNHART. That is absolutely correct. It is attributable, as you said, to change of name. There is no question—

Ms. JACKSON LEE. So that is not a \$345 billion check given to Mexico?

Ms. BARNHART. No, absolutely not.

Ms. JACKSON LEE. Thank you.

And let me thank you, Commissioner, for your service as well. You hail from the great State of Texas, and it warms me all over to have you here this morning, and I thank you very much.

Mr. APFEL. Thank you.

Ms. JACKSON LEE. You obviously experienced at least these questions as process and if you can share your thoughts—as I said, I apologize. We were engaged in a matter on the floor that I was involved in. But if you could create a new totalization process, what changes would you make in the role that Congress plays and how would you make those comfortable that surmise that we be legislating on a treaty and, of course, changing immigration laws and giving a blank check to the country of Mexico?

Mr. APFEL. I think that the current process with hearings and consultation that goes forward I think is critical as we move forward on these issues, and this particular totalization agreement clearly has more—I don't think there would be very many hearings on any of the other 20. This is the first one that has been at all terribly controversial.

So having hearings I think is an important part of that process, and that is good. The consultation that goes on I think is appropriate.

The other things that need to be thought of within the Social Security Administration, each one of these totalization agreements is somewhat unique. I am not here to either handicap the work that has been done within the Social Security Administration or to second guess any of the efforts that have gone on, but clearly examining some of the internal controls that exist within Mexico and with the United States with these issues is part and parcel of the responsibility of the Administration to do so, and I would fully expect that those would be the type of issues that would be examined carefully in terms of Mexican/U.S. Agreements.

So it is my belief that the administration should consult with the Congress, which it is doing, but also that it needs to assure that the internal controls are in place for this unique agreement, and it would—I believe that those type of steps would be appropriate, and I believe they are—my guess is that they are taking place.

Ms. BARNHART. If I could just add that, in fact, those would be precisely the kinds of things, as Mr. Apfel points out, that we would deal with in an administrative agreement which is always required as part of a totalization agreement. There is always an administrative agreement negotiated between the two nations that gets into exactly those kinds of things, and one of my reactions to Ms. Bovbjerg's comments was precisely that. Some of the concerns that GAO has would in fact be worked out through such agreements when an agreement were structured.

Ms. JACKSON LEE. You would not find it helpful for a legislative intervention to the extent of barring the participation in the totalization agreement? Just a flat-out bar? Cannot do it?

Ms. BARNHART. I think barring totalization agreements would certainly work against the interest of American businesses. Because, as you pointed out in your opening statement and Ken and I both have said, the net gain to the American economy is \$600 million a year as a result of the 20 agreements that we have because of taxes that we don't have to pay, our employers don't have to pay to foreign nations; and, conversely, we only lose \$200 million a year into our trust fund. So it is a \$600 million net gain that will only grow over time.

I would also take this opportunity to say I share Ken's belief that the consultation with Congress is important. In fact, it is precisely for that reason that prior to your summer recess I actually invited all the Members of this Committee and the Ways and Means Committee on the House side and the Finance Committee and Judiciary Committee on the Senate side and Appropriations Committee to attend a briefing on where we were with Mexican totalization because I really wanted to make sure that I was hearing the concerns of Congress and able to address them to the extent possible in the discussions that we are having with Mexico.

Ms. JACKSON LEE. Mr. Chairman, if you will indulge me, I think Mr. Mowbray—and I want to thank him for the work that he has done and I think hopefully we can give him comfort by putting in strict regulations to avoid the possibility of fraud, but you wanted to comment.

Mr. MOWBRAY. Yes, just a couple points. I mean, estimates are only as good as the assumptions upon which they are based, and so—actually, Ken—I agree with Ken's comment that most of the actuaries that I have worked with in the Social Security Administration when I worked on the Hill working on this issue are excellent. I don't actually doubt the ability they have to crunch numbers and make estimates based on the assumptions they are given. So the quality of their work I do not dispute.

It is the question of making sure, as you pointed out, to explicitly exclude Mexican nationals who do not attain legal status in the United States. Because, again, under present law you have to be lawfully present in the United States, but if a totalization agreement—again, the essence of it is that someone can be here, working here, and they can be a citizen or a legal resident of a different country and still receive benefits based on U.S. Taxes paid.

So if a Mexican national comes here for several years or, worse yet, commits fraud and has forms indicating that he worked here for several years, then that person could collect benefits. And that

is the real concern with something like this, because the numbers can add up very fast. If I may, I have an example here just, I think, that would make it very clear to people how much money you can be talking about on a case-by-case basis.

If a 24-year-old Mexican national who has worked illegally in the U.S. For 3 years is able to present documents from a doctor or a friendly doctor, as the case may be, and needed a W-2 or pay stubs indicating \$12,000 in annual earnings, this individual would be eligible for the following: Nearly \$8,000 per year in disability income adjusted for inflation until age 65 at which point he would receive the same amount as retirement pay. If he does manage to get a job under the table in the U.S. Or Mexico, he would be able to double dip for a second income stream, and if he is survived by his wife or dependents, his family would be able to receive up to \$12,000 annually. If he dies at age 60 and his widow lives to age 85, U.S. Taxpayers would be on the hook for a total of a half million dollars. That is for one worker brought into the Social Security system under the totalization agreement after working in view in the United States illegally for 3 years.

Ms. BARNHART. Let me say I realize you don't want a debate, Mr. Chairman, but giving that kind of example suggests that all people do to receive Social Security disability is to bring a statement from a doctor. Also, Mr. Mowbray's example suggests in some way we would cede responsibility for making disability determinations totally to the Mexican government without using the standards we have now.

Let me just say totalization is but one of my responsibilities as Commissioner of Social Security. I have spent the bulk of these last 2 years since I assumed this post trying to correct our disability system. That is one of the reasons I, in fact, was in Houston with Ms. Jackson Lee.

The fact of the matter is right now the best-worse case situation we have for people moving through disability takes 1,153 days, and it is an arduous process. We have people who literally are dying before they get disability benefits. So to suggest that we would—all of a sudden people from Mexico would simply on the basis of a letter from a doctor or one piece of documentation receive disability is really a misrepresentation of what occurs.

Ms. JACKSON LEE. I will just conclude on this note, Mr. Chairman, and then end; and I want to thank the witnesses. But as you recall, tragically, the 9/11 terrorists had nonimmigrant visas that seemed to have been given without much consideration. We fixed that or we have made an effort to staunchly fix it by way of intense scrutiny of nonimmigrant visas. As I understand it, the Commissioner, that would be her commitment in terms of the totalization program, to make sure that she intensely or it is structured that we intensely scrutinize for fraud.

I yield back. Thank you.

Mr. HOSTETTLER. I thank the gentlelady.

The Chair now recognizes the gentlewoman from Tennessee, Mrs. Blackburn, for 5 minutes.

Mrs. BLACKBURN. Thank you so much, Mr. Chairman. I appreciate that very much.

I appreciate all of you coming; and, Ms. Barnhart, I can tell from the look on the faces of your staff that they are just dying to answer and probably don't agree with a lot of what is being said on the panel. So we may submit some questions—

Ms. BARNHART. I would welcome the opportunity.

Mrs. BLACKBURN [continuing]. For them to answer. Because I think it is important for all of you to realize policy does affect immigration and policy does affect cost and it is something that our constituents are incredibly concerned about. Every single dollar the Federal Government spends comes from the taxpayer, every obligation that goes on the line comes from the taxpayer, and we are here to represent those taxpayers, and we take that representation very seriously.

Ms. Bovbjerg, I would like to come to you, if I may, please. How cooperative has the Social Security Administration been in getting the information that you need to do your analysis of the impact of the totalization program?

Ms. BOVBJERG. I think we have usually quite a good working relationship. I think it has been difficult to get information on totalization in part because there isn't much to obtain. There isn't much documentation. We have also worked with the Department of State to try to get that information.

I have kind of let everybody else around me talk, and one of the things I did want to say about our work on cost is that we really want to ratchet it up from anecdotal information and just to think more about risk. What we are talking about is risk, the risk that the information that comes to document totalization requests isn't correct, that there aren't adequate internal controls. I know I am sounding like an accountant now, but there may not be adequate internal controls in another country's system.

I don't know that that is the case, but we don't know that they are adequate either. SSA really hasn't done that work. I am reassured that that work will be done in the future, but it has not yet been done. With costs, the risk that the costs will be higher than what the actuaries have estimated—and we have a great deal of respect for SSA actuaries and agree that their estimate is certainly within the range—in fact the range of cost may be much higher and that is something that should be known before making a decision like this.

Mrs. BLACKBURN. Let us talk about that for a minute. Because in your written testimony you state that the actuary increased the initial number of Mexican beneficiaries by a factor of six over the next 45 years for their long-range cost estimates. If you would speak specifically to what the thought process or the analysis process was that led to that, and also do you think that the comparison to Canada is a means to evaluate the reasonableness of the number of beneficiaries?

Ms. BOVBJERG. Well, there are a few things that concerned us about the estimate. I mean, one was the 50,000 that we started out with. SSA had reasons for using that number, and we understand those reasons, and that is one way to approach it. But it does seem awfully small compared to the 5 million undocumented Mexicans in this country in the year 2000.

At the same time, we felt that they were also, in coming up with that number, not looking at some of the incentive issues and some of the behavior changes that might occur under such a change in U.S. Policy. We were not really reassured by the analysis of the Canadian experience because we really think that the Mexican agreement is quite different from all the other agreements that have been negotiated in the past; and to compare to Canada, where the number of undocumented workers is so very much smaller than the number from Mexico, seemed to not really be an adequate reassurance.

Mrs. BLACKBURN. Okay, let me ask you this. My constituents would look at this totalization agreement and feel that this is the type policy that would encourage illegal immigration because people can break the law, enter the country illegally, work and then get benefits. So I would like to hear from you and maybe from Mr. Mowbray how this will not encourage illegal immigration.

Ms. BOVBJERG. Well, I am not sure I could say that. I think that a totalization agreement does remove barriers to legal work, people who want to come here and work and don't want to be taxed twice and want credit for any covered employment they were in. It also could encourage people working illegally who think, well, you know, I can get benefits for this. Might it be marginal? Yes. But people are going to come, I feel, on the basis of some of the experiences that we have seen with identity theft and fraud in all of our benefit programs and they will take the trouble either to save their documentation or to find some way to create it.

Mrs. BLACKBURN. Mr. Chairman, is there time for Mr. Mowbray to respond?

Mr. HOSTETTLER. Yes.

Mrs. BLACKBURN. Thank you, sir.

Mr. HOSTETTLER. Without objection.

Mr. MOWBRAY. I think I share the concerns of Ms. Bovbjerg. I think that anytime again that you increase the compensation for a certain behavior—this is the economist in me coming out—you are going to increase the likelihood of that behavior occurring. So if you make it more profitable to be an illegal alien in the United States you are more likely to have more illegal immigration, and the quantity or the amount becomes—is really just a question that you can't find out or predict in the beginning, something that you only find out over time.

I think that if the Commissioner is making the efforts—and I don't know to what extent you are making the efforts at the present moment—to ferret out fraud—and if you are, I applaud you for that, and I think that is something that has to be done, knowing that from my time on the Hill.

So if you had a system that actually did rout out the fraud and was clean and you made it very difficult for people who commit fraud to receive benefits and if you had a system that explicitly excluded illegal aliens or people who are not lawfully present for purposes of the Mexican totalization agreement, then I think that the estimates provided earlier by the Social Security Administration probably would be in the range, in the ballpark. So those are the concerns I have with that.

Mrs. BLACKBURN. Thank you.

Mr. HOSTETTLER. The Chair will now entertain a second round of questions, and I would like to hold it—try my best to hold it this time to as close to 5 minutes. I allow the gentlelady, obviously, because she asked the question within the 5 minutes to Mr. Mowbray.

But let me take a scenario that deals with a totalization agreement which is the basis for this hearing. It is not necessarily current law but a totalization agreement with Mexico. That being said, for an example, if a totalization agreement with Mexico said something like, notwithstanding any other provision of law, all citizens of Mexico who have worked in the United States and have obtained credits for Social Security will obtain Social Security benefits under this agreement, that would say that the actions of illegal immigrants working in the United States would be defined as part of the benefits of this package, is that not correct?

Ms. BARNHART. I don't have the authority to do that. We wouldn't have the authority—one of the steps in the process is actually reviewing what is negotiated in the final agreement based on the existing laws, and that is a review that is done by the State Department and Social Security. So it is not a matter—we are not authorized to change law. We must abide by the laws that Congress has created and passed and enacted already. So you would not see the phrase “notwithstanding any other provision of law” because we don't have the authority to do that. One of the steps of the approval process is making sure in fact that we have adhered to all the existing laws of the United States.

Mr. HOSTETTLER. But the existing laws don't allow for totalization.

Ms. BARNHART. The existing law in Social Security—

Mr. HOSTETTLER. For this totalization agreement. Your totalization agreement will be a law.

Ms. BARNHART. Right. But there is a statute that governs totalization. There is a paragraph I would be more than happy to submit for the record that makes very clear about the limitations on totalization agreements and exactly what latitude one has. It is very specific, and it does not authorize us. We would not be able to submit such an agreement for approval by the Congress if it did not adhere to the law.

The law that Congress has passed related to illegal immigration status and Social Security is the one I described earlier, Mr. Chairman, which says that you must be in—you must be lawfully present in the United States to receive a Social Security benefit and is silent other than that on immigration.

Mr. HOSTETTLER. So no money illegal immigrants pay into a Social Security account will come to that individual as a result of their illegal acts?

Ms. BARNHART. I can't say that. I can say none will as a result of a totalization agreement.

The situation is there are individuals now no doubt who—because no system is perfect and there is absolutely no question that there are individuals who today are probably receiving Social Security benefits who worked illegally at some point in their career in this country.

One of the reasons for that is that the system that documents immigration status writes over their status. So, in other words, if you were illegal 3 years ago but at the time you apply for benefits you are in legal status, the only thing in the former INS system is the status today, the current status. It is a write-over system. It doesn't do a chronological history. So administratively there is virtually no way for us to determine legal status looking back over time.

So I want to be very clear. I don't want to mislead the Chairman at all. The fact of the matter is under current statute there is no prohibition against people—the law is silent with respect to immigration status with the exception of saying if you are in the United States and apply for benefits to receive them you must be lawfully present.

Mr. HOSTETTLER. That is a good question. If you are in the United States. What happens if you are in Mexico?

Ms. BARNHART. If you are in Mexico and you have earned 40 quarters—

Mr. HOSTETTLER. Legally or illegally?

Ms. BARNHART. Again, the statute is silent on that. There is not a prohibition. Yes. But that is why I say, whatever the situation is, it would not be affected by a totalization agreement, Mr. Chairman. That is the point. We would not be changing anything in a totalization agreement.

Mr. HOSTETTLER. Okay. Ms. Bovbjerg, could you comment on that?

Ms. BOVBJERG. Thank you.

As the Commissioner was saying, it is difficult to understand exactly what would change under totalization. The people who would be newly eligible for benefits under totalization are Mexicans who earn between 6 and 39 coverage credits in the United States and are able to make up the rest in Mexico. They are not now eligible for benefits because they don't have 40. If they are not legally present, they can get those benefits in Mexico. Just the same as currently someone who has more than 40 credits and lives in Mexico can get U.S. Social Security benefits.

The other people who would benefit are the dependents and survivors, the families. Currently they have to be living in a family relationship in the United States with the entitled worker for 5 years to qualify for benefits. In standard totalization agreements that provision is waived, and there is no reason to think that it would be different in this one, although we have not seen any draft language.

Mr. HOSTETTLER. My 5 minutes are up.

The Chair recognizes the gentlewoman from Tennessee, Ms. Blackburn, for 5 minutes.

Mrs. BLACKBURN. Thank you, Mr. Chairman.

Ms. Bovbjerg, I want to stay right with that train of thought right there. So what I am understanding from you is that illegal immigrants and their families, their survivors, their dependents could be eligible or a family of someone who worked illegally in this country could be eligible for Social Security benefits under the totalization agreement in part because it is silent on the condition of being here legally or illegally?

Ms. BOVBJERG. You are required under the law from the Welfare Reform Act of '96 to be legally present to get benefits here. How you earn those benefits is not relevant to the Social Security Administration's work. If you earned them legally or illegally and you are legally present, you will be paid those benefits. If you are not legally present, you can get them if you are a Mexican citizen in Mexico.

Mrs. BLACKBURN. In Mexico.

Ms. BOVBJERG. Yes. But your family—under current law it is difficult for your family to do that, and a provision that is in current law is waived in the totalization agreements generally.

Mrs. BLACKBURN. Okay, but what you are saying is the family could be there in Mexico, the person could have worked here, have been an illegal immigrant here and still draw those benefits?

Ms. BOVBJERG. Under totalization.

Mrs. BLACKBURN. Under totalization. So when you consider this and consider the 5 million undocumented workers that you all estimate are here in the U.S. And you are looking at Social Security and survivor benefits and widow benefits and then these have to be included in your compilation, your cost estimate, would you please give me what you think is a top range of a cost estimate for this?

Ms. BOVBJERG. I wish I could. We looked at the actuaries' estimates because we know that they are in the best position to provide this kind of information and we felt that, given other things, we knew the estimates could be on the low end of the range. I think what we were really looking for is what might the range be and how really could we think about this apparent disconnect between the number of people assumed in the estimate and the number of people that the former INS estimated in the year 2000. I think that is the conversation and that is the kind of analysis that would be helpful in thinking about a totalization agreement with Mexico.

Mrs. BLACKBURN. So, in other words, what I am hearing you say is there is a considerable amount of analysis on these considerations that needs to take place before we have a better cost estimate of what it could possibly cost us or would possibly cost us in the long term?

Ms. BOVBJERG. We believe there needs to be a range and that there needs to be a risk assessment. I mean, the actuaries clearly acknowledge the uncertainty of these estimates, and we can appreciate that it is difficult without very good data out there on which to base an estimate, but having a range and some assessment of risk and also the assessment of the systems risk I think would be very helpful.

Mrs. BLACKBURN. Mr. Mowbray?

Mr. MOWBRAY. Thank you.

I think that, again, when it comes down to the cost there are two things. One, you can look at the actual range and assume that no illegals are to receive benefits under the pact, which I don't think as presently structured would be a correct assumption, but if you were to assume that the Social Security Administration has been off by as much as I believe 600 percent on their estimates on pre-

vious totalization agreements in terms of the number of recipients—

Right now, the Social Security Administration is projecting only 37,000 Mexicans total would sign up during the first year, decreasing to 28,000 new people added to the system by the fifth year, for a total of 160,000 people overall. When you compare that to estimates of 7 to 11 million illegals in this country, some 70 percent of which are of Mexican origin or Mexican nationals, and they do on average tend to be younger by about 5 years than the average population, you have a higher working percentage there so you have a lot of people who could become eligible for this.

Again, a properly structured deal with Mexico—I think at least three of the panelists here agree; maybe you agree as well—would be in the interest of the United States. That I have no disagreement with. It is just the key is to make sure that it is properly structured.

And you can't say that Mexico is like Canada or like any of the other countries we have. We have a very unique relationship with Mexico. They provide us with 70 percent of our illegal aliens. They provide us with an awful lot of our legal immigrants as well and make up very large communities in States such as Texas and California, and I will say my background—I am an avid free trader. I have often been referred to at least as pro-immigrant. I just don't support illegal immigration, but I support high levels of immigration, and I think that you should have systems that are fair for immigrants who play by the rules, not for people who cheat and who break the law by their very presence in the United States.

Ms. BARNHART. Mrs. Blackburn, if I may, I certainly understand your concern about explaining the terms of such an agreement and what the effects would be to your constituents and to the taxpayers of this country. Obviously, I have the same responsibility as Commissioner of Social Security from my perspective in that role, and I do think that it is critically important in making that explanation and then describing the effects of such an agreement that the information that is presented is as accurate and factual as possible.

For that reason I want to go back and repeat something I said earlier, which is when you look at the estimates that our actuaries have done over time on totalization agreements, in aggregate they are within 3 percent of estimating correctly, within 3 percent the number of individuals that would be eligible for totalization and have in fact turned out to be eligible for totalization benefits. So I simply couldn't, Mr. Mowbray, allow the 600 percent that you used to lie out there.

Mr. MOWBRAY. Are you saying that that has never happened?

Ms. BARNHART. No, what I am saying is, in aggregate—

Mr. HOSTETTLER. The gentlelady's time has expired.

I appreciate that, and that will be a good situation for a debate and op-ed columns or whatever, but I appreciate very much the attendance of all the witnesses and your input into this process.

Without objection, all Members will have 7 legislative days to add additional comments or questions into the record.

The business before the Subcommittee being completed, we are adjourned.

[Whereupon, at 12:15 p.m., the Committee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF CONGRESSWOMAN SHEILA JACKSON LEE

The Social Security program provides monthly cash benefits to retired and disabled workers and their dependents, and to the survivors of deceased workers. To qualify for benefits, they must work in Social Security covered jobs for a specified period of time. Generally, workers need 40 quarters of coverage to become *insured* for benefits. Fewer quarters are needed for disability and survivor benefits, depending on the worker's age.

The Social Security program is financed primarily from mandatory payroll taxes levied on wages and self-employment income. Most jobs in the United States are covered under Social Security. Approximately 96% of our work force is required to pay Social Security payroll taxes.

Workers become *eligible* for Social Security benefits when they meet the insured status and age requirements specified in the Social Security Act. They become *entitled* to benefits when they have met all of the eligibility requirements and have filed an application for benefits. Because Social Security is an *earned* entitlement program, there are few payment restrictions when a worker becomes entitled to benefits.

The Social Security Act does not prevent undocumented aliens from becoming *eligible* for Social Security benefits. However, an alien must be lawfully present in the United States to receive benefits. If an alien in the United States is eligible for benefits but is not *lawfully present*, the benefits are suspended.

The purpose of this hearing is to receive evidence on whether there should be a Social Security totalization agreement with Mexico. The close economic relationship between Mexico and the United States has resulted in an increasing number of Mexican citizens spending at least some portion of their working lives in the United States, and, conversely, some United States citizens are spending a portion of their working lives in Mexico.

In many cases, people working in two countries accumulate credits toward benefits eligibility under the social security systems of both countries, but their credits may not be sufficient to qualify them or their family members for benefits in either country. The United States Social Security Administration and the Mexican Social Security Institute have had informal conversations on the possibility of signing a Social Security totalization agreement that would alleviate this situation. It would allow workers to count the work they do in both countries. This is called "totalizing" one's credits. Employees would be able to combine earnings credits to qualify for benefits under either or both systems, with benefits prorated to reflect the number of years that employees paid into each system.

Currently, about 3,000 United States citizens working in Mexico, and their employers, are paying both United States and Mexican social security taxes. Over the next five years, these United States citizens and their employers will pay approximately \$134 million in Mexican social security taxes in addition to their contributions to the United States Social Security system. A totalization agreement would prevent such double taxation. Employee wages would not be taxed by both the Mexican and United States Social Security systems at the same time.

I have heard claims that the first year cost of an agreement with Mexico could be \$345 billion. In fact, the \$345 billion figure is the approximate total of wages in the Social Security Earnings Suspense File and is not a proper basis for predicting the cost to the Social Security Trust Funds of a totalization agreement. The earnings maintained in Earnings Suspense File represent wages that the Social Security Administration is not able to post to a specific individual's record. This problem occurs when the name and the Social Security Number on a wage report do not match a name and Social Security Number in Social Security records.

While a portion of the Earnings Suspense File can be attributed to the earnings of undocumented aliens, this fund also includes earnings from legal aliens and United States citizens. Name and Social Security mismatches can and do occur for a number of reasons, including transcription or typographical errors, incomplete or blank names or Social Security Numbers, and name changes that were not reported to the Social Security Administration.

The Social Security Administration's actuaries estimate that an agreement with Mexico would cost the Social Security Trust Funds approximately \$78 million in the first year, rising to approximately \$138 millions by 2008, for an average cost of approximately \$110 million a year over the first five years.

Finally, I want to emphasize that aliens who work a very short time in the United States would not receive full United States Social Security benefits under a totalization agreement. Benefits paid under a totalization agreement that are based on combined credits are prorated to reflect the length of time the employee was covered under the paying country's system. Full United States Social Security benefits would not be paid unless a person has worked long enough in the United States to qualify for full benefits.

PREPARED STATEMENT OF CONGRESSMAN STEVE KING

Chairman Hostettler, Thank you for holding this hearing today. We must do all we can to make the Social Security system more sound and enforce our immigration laws.

United States citizens should not be forced to serve as Mexico's social safety net. I was shocked to learn of the Social Security Administration's proposal to give Social Security checks to Mexican citizens, who worked illegally in the United States, under the guise of a totalization agreement with Mexico.

Totalization agreements are traditionally used to allow workers to divide their careers between two countries and combine their credits under both systems to qualify for benefits if they lack sufficient coverage under either country's system. Once the worker qualifies, the benefits are prorated. These agreements have been made with countries with stable economies, resulting in a net gain for both the US and the other country. However, an agreement with Mexico could put the American taxpayers on the hook.

Proponents of a Totalization Agreement with Mexico claim that, according to their estimates, American seniors wouldn't lose any money, but I question their actuarial assumptions. Estimates are only as good as the assumptions on which they are based. The SSA actuary used some questionable assumptions. For example, he predicted the total number of initial Mexican beneficiaries based on the numbers from Totalization Agreement with Canada. However, Canadian Social Security benefits are quite generous by comparison with Mexico's. Canadians who work in the U.S. are primarily lawfully present, compared to the 5 million or so Mexicans unlawfully working in the U.S. In fact, Canada has asked for the assistance of the United States to keep Mexican illegal aliens from crossing the US-Canada border.

I am also concerned that the Social Security Administration does not have adequate information about the financial solvency of the Social Security system of Mexico. Past agreements have been made with solvent countries with which the US exchanges professional workers, but never with a country like Mexico with such a large number of legal and illegal workers in the United States. The record keeping ability of the Mexican Social Security Administration is unproven. SSA investigators need to spend more time looking at the Mexican system and how they verify its' accuracy and solvency. The question of the relative value of a fluctuating Mexican currency is also unresolved. With today's technology, we have the ability to track each legal worker's contribution to Social Security. Use of this data can take the guesswork out of a totalization agreement.

Finally, a Totalization Agreement with Mexico will increase the level of illegal immigration from Mexico to the United States, straining our social services and communities. The United States should not enter into an agreement with Mexico that encourages Mexicans to violate our immigration laws. Paying benefits to foreign nationals who are not authorized to work here rewards those who violate the law. If a worker can get benefits regardless of whether he plays by the rules and gets a green card, why would he bother to obey the law? We need to tighten the loophole that allows illegal aliens who work in the United States and then become lawful immigrants to get social security benefits. People should not be rewarded for working here illegally. Illegal aliens who pay money into the Social Security program are not entitled to receive benefits. Illegal aliens are not entitled to keep their ill-gotten gains.

The proposed agreement with Mexico is weak and sells our seniors short. We must strengthen the protections for America's seniors and pay money only to those who paid into the system while working legally, in proportion to their contribution. Thank you, Mr. Chairman.

F. JAMES SENSENBRENNER, JR., Wisconsin

Chairman

HENRY J. HYDE, Nevada
 HOWARD COBLE, North Carolina
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 ELYN GALLAGHER, California
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October 21, 2003

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The Honorable Jo Anne Barnhart
 Commissioner of Social Security
 Social Security Administration
 500 E Street, SW
 Washington, DC 20254

Dear Commissioner Barnhart:

Thank you for appearing before the Subcommittee on Immigration, Border Security, and Claims for the oversight hearing, "Should There be a Social Security Totalization Agreement with Mexico?" on September 11, 2003. In order to complete the Subcommittee's hearing record, we would appreciate your answers to the following questions as agreed in during the hearing:

In your testimony before the Subcommittee, you stated "Myth number two: One result of a Totalization agreement will be to begin to pay benefits to undocumented or illegal aliens." Members of the Subcommittee are generally aware that under current law a non-citizen applying for benefits today cannot collect Social Security benefits if he/she is not legally residing in the United States, but he/she can get credit toward Social Security for work done while he/she is not lawfully present in the U.S. Therefore, a person can earn credits toward Social Security eligibility while breaking our nation's immigration laws. The central issue addressed in the oversight hearing was the expressed concern of the Chairman, and some other Members, that the Totalization agreement with Mexico will lead to a much larger volume of benefits payments to Mexican citizens residing in Mexico or other foreign countries derived from work in the United States while they were not lawfully present in the United States.

The General Accounting Office witness, Barbara Bovbjerg, testified in the hearing, "the agreement would increase the number of Mexican workers who would be paid United States Social Security benefits by making it easier for them to qualify for such benefits. Mexicans with fewer than 40 coverage credits in the United States will be permitted to combine their earnings recorded in Mexico with any United States credits that they have; if the combined total equals the 40 credit threshold, they will receive at least partial benefits from the United States program."

The Honorable Jo Anne Barnhart
 October 21, 2003
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Ms. Bovbjerg further testified that "Totalization agreements generally override provisions in law that prohibit benefit payments to noncitizen dependents and survivors residing outside the United States." *Was the General Accounting Office witness in error? If the General Accounting Office witness was correct, will the agreement with Mexico lead to paying benefits to a much larger number of Mexicans, including workers, dependents and survivors than would have qualified without the Totalization Agreement?*

In your testimony addressing "Myth number three," you stated that Social Security Administration actuaries estimated "the cost of a possible Totalization agreement with Mexico to be about \$78 million in its first year, rising to \$138 million in the fifth year, for an average cost of \$110 million over the first five years." *Since the Totalization agreement with Mexico provides a reduced requirement for coverage credits that will directly benefit the roughly five million illegal Mexican workers now in the United States, most of whom have been in the United States for less than five years, will the effect for most Mexican workers be further in the future contrary to the first five years as cited in your estimate? If so, why did your testimony not address the estimated cost of the agreement over a longer time range than the first five years? Was the estimated cost for the first five years addressed in your testimony because it reflects the least costly years moving forward?*

Ms. Bovbjerg's testimony stated that "the assumptions on which the (long term actuarial) estimates are based are not directly related to the estimated millions of current and former unauthorized immigrants from Mexico. The estimate is based on the 50,000 people currently living in Mexico and receiving Social Security benefits from the United States instead. This figure appears relatively small in comparison with the government estimates of about 5 million unauthorized Mexicans in the United States in the year 2000, and it is this population of unauthorized immigrants that makes estimating the agreement's costs so problematic." *The General Accounting Office testimony during the hearing drew into question the actuarial estimates prepared by the Social Security Administration for the future cost of the Totalization agreement. After hearing that testimony, do you now think that the estimation process should be reviewed more carefully? While we recognize that the Social Security Administration actuaries are an independent source of cost estimation, the GAO stated that they relied as their basis on the 50,000 people who have established eligibility against a much higher current threshold for eligibility. Please explain the logic the actuaries employed when they based the future costs for millions of Mexicans, including workers, dependents and survivors, who will through Totalization be able to establish eligibility for partial (not full) Social Security benefits. If, because of the independent status of the actuaries, you are unable to provide such an explanation, please refer this question to the Social Security Administration actuary for a more complete, written explanation.*

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During the hearing, you made a statement as to how the Social Security Administration "unscramble earnings," and "that an individuals must bring in a W-2, prove in fact that they are that person, that it is their Social Security number, and then we actually go into the earning suspense file and remove those earnings from where they are recorded, and post them to that individual." *Please extend your explanation in as much detail as possible including the full process of review. Please provide us with the approximate number of applicants that annually seek to establish Social Security benefits eligibility using as supporting information for qualifying work quarters W-2's that have other people's Social Security numbers and/or other people's names? Please provide us with the approximate number of applicants that seek to establish Social Security benefits eligibility using as supporting information for qualifying work quarters W-2's that derive from prior periods when those applicants were unlawfully present? When an applicant for eligibility presents a W-2 that has another person's Social Security number and/or another person's name, please describe how the Social Security Administration substantiates that these documents were the result of actual employment by the applicant? Does the Social Security Administration provide any notice to federal immigration authorities when it receives representations and written statements provided from prior employers or others regarding work history to substantiate W-2's which carry a different name or Social Security number other than that of the applicant? If not, why not, as these statements would be clear evidence of prior fraudulent or false statements on the part of the applicant, and possibly on the part of the employer?*

In your testimony addressing "Myth number four," you stated that "all of the earnings in the Earnings Suspense File came from undocumented or illegal aliens." This statement appears to be aimed at press reports that the dramatic increase in the Earnings Suspense File in the last 10 years was primarily the result of W-2's submitted by employers that used false names or bad Social Security numbers. Unless you were making the point that not "all" of the earnings in the Earnings Suspense File, it appears to be in conflict with several published reports by the Social Security Administration's Office of Inspector General. *Do you disagree with the Social Security Administration Office of Inspector General's published reports and testimony before Congress that a very large part of the earnings increase in the Earnings Suspense File is the direct result of work by illegal immigrant workers?*

The Social Security Administration Office of Inspector General has found that there are patterns of reporting errors among certain employers, including identical Social Security numbers used for more than one employee, non-issued Social Security numbers, and consecutively numbered Social Security numbers – all of which end up in the Earnings Suspense File. The Social Security Administration Office of Inspector General also found many instances of employers and industries that continually submit erroneous wage reports. One study of 20 agriculture employers in which 60% of their wage reports had inaccurate names or Social Security numbers and who submitted almost \$250 million in mismatched wages between 1996 and 1998 – and that three industries (agriculture, food and beverage, and services) account for almost half of wage items in the suspense file.

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How is it that your testimony regarding "myth number four" did not reflect an awareness of the Office of Inspector General findings? Do you think that the Office of Inspector General findings are wrong? If so, on what basis?

In 2000, about 9.6 million wage items representing \$49 billion in wages did not match Social Security Administration's records. *Do you believe the roughly 10 million erroneous W-2's submitted to the Social Security Administration per year add to the future work load of Social Security Administration when it is necessary to "unscramble wage earnings," on behalf of applicants? In an age where most employers use automated employee records systems that greatly reduce typographical errors, and provide updates of marital status, do you really believe that honest errors account for the majority of erroneous W-2's submitted over the past ten years?*

In your testimony, you stated that "name and Social Security number mismatches can occur for a number of reasons, including transcription errors, typographical errors, name changes due to marriage or divorce and incomplete or even a blank name or Social Security number." *What methods does the Social Security Administration employ to separate honest errors from fraudulent errors? Are you aware of Social Security Administration Office of Inspector General recommendations to take more aggressive actions with regard to employers who continue to send large numbers of erroneous W-2's? Does the Social Security Administration ever refer employers that submit hundreds or thousands of erroneous wage reports to the Immigration and Naturalization Service (now Department of Homeland Security) or the Internal Revenue Service or to otherwise target them for corrective action? If not, why not? The Social Security Administration Office of Inspector General has recommended that legislation be enacted preventing Social Security from using wages from unauthorized work to determine eligibility and benefit amounts. How would such a law effect current Totalization agreements now in effect? How would such a law effect the Totalization agreement with Mexico?*

Your testimony did not address the reliability of the Mexican Social Security System, either with regard to its financial solvency or to its record keeping accuracy. In Ms. Bovbjerg's testimony, she stated that "Social Security Administration officials provided no evidence that they had examined key elements of Mexico's program, such as its control over the posting of earnings or its processes for obtaining key birth and death information." *Will the Social Security Administration be conducting a more extensive review of the core business processes of the Mexican Social Security system to gain greater assurance of the fundamental integrity of both the record keeping and the controls of the granting of eligibility to Mexican applicants by the respective Mexican government agencies?*

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We appreciate your answers to the Subcommittee's post-hearing questions. Accordingly, please provide this Subcommittee, no later than Monday, November 17, 2003, with the response to facilitate the completion of the Subcommittee's official hearing record. If you have any questions regarding this request, please contact Brian Zimmer at (202) 225-2825. Thank you very much for your attention to this matter.

Sincerely,

A handwritten signature in black ink, reading "John N. Hostettler". The signature is written in a cursive style with a large, stylized "J" and "H".

John N. Hostettler
Chairman, Subcommittee on Immigration, Border
Security, and Claims

TO: Kim Hildred

SUBJECT: Responses to Questions Raised at July 22 Briefing on
Totalization Agreements

Attached are responses to the questions raised at the July 22
totalization briefing for which no immediate answers were available.
You indicated that you were willing to pass on these answers to the
participants.

If there are any questions concerning these responses, please let me
know.

A handwritten signature in black ink, appearing to read 'Bob', is positioned above the printed name.

Robert M. Wilson

Responses to Questions Raised at July 22, 2003 Briefing on
Social Security Totalization Agreements

- 1. You indicated that 25 percent of the U.S. totaled benefit is withheld, similar to withholding under the taxation of benefits provision. Do the trust funds get credit for this money?**

Yes. The 25.5 percent tax is credited to the Old-Age, Survivors and Disability Insurance trust funds, but not the Hospital Insurance trust fund.

- 2. You indicated that SSA staff visited Mexican social security field offices in Mexico City, and that the computer system was fairly sophisticated. Can you verify that this is also the case in outlying areas.**

The Mexican Social Security Institute has assured us that the automated system of records that is in operation within Mexico City is used nation-wide in their field offices.

- 3. What is the Mexican social security tax rate?**

The Mexican Social Security system as administered by the Mexican Social Security Institute (IMSS) includes a collection of programs broader in scope than that of the United States. The attached table details the tax rates pertinent to each of the programs. Taken together, the total contributions for the programs are 20.24% of payroll, of which 1.46% is a Government contribution. The total employer and employee tax is therefore 18.78%. These contributions are assessed on earnings up to an annual ceiling which is scheduled to increase by 2007 to 25 times the Mexico City minimum wage (a total currently of about U.S.\$38,700). In addition to the programs administered by the IMSS, there is also a housing fund program administered by another Agency of the Mexican Government for which employers are assessed a 5% payroll tax.

- 4. Do totalization agreements result in jobs for American workers? Do you have any data on this?**

Totalization agreements eliminate duplicate employment taxes and remove benefit-related disincentives for workers to move from one country to the other.

Agreements allow U.S. companies to transfer executives, managers, technical personnel and other employees to their foreign operations without the need to pay foreign Social Security contributions on their behalf in addition to the U.S. Social Security taxes the companies must also pay. This savings not only benefits the American companies, but also stimulates American business abroad. Although no data exists, the effect of the agreements is to provide additional incentives for American and foreign businesses to expand their activities internationally. This

expansion often has ripple effects on the level of employment both at home and abroad.

5. You said that American employers save \$800 million annually as a result of totalization agreements while foreign employers are exempted from \$200 million annually in FICA contributions. Can you break this out by country? Shouldn't you change your systems to easily collect this data.

\$800 million is an estimate of the amount that American employers and employees save in foreign Social Security taxes each year as a result of totalization agreements. The figure can be broken down by country, as follows:

Country	Tax savings For US Employers (in millions of dollars)	Tax Savings for Foreign Employers (in millions of dollars)
Austria	\$ 6	\$ 1
Belgium	238	3
Canada	8	86
Finland	4	11
France	121	8
Germany	68	17
Greece	5	.1
Ireland	14	5
Italy	33	3
Luxembourg	3	.1
Netherlands	29	13
Norway	12	6
Portugal	1	1
Spain	8	2
Sweden	4	2
Switzerland	24	1
United Kingdom	236	45

Currently, we are able to provide this data based on an estimating methodology that considers a number of factors related to the totalization process.

Automating the production of these estimates would be difficult because they are based largely on data from non-SSA sources, such as foreign Social Security tax rates and Treasury data that is only published at irregular and often lengthy intervals. SSA periodically updates the estimates of foreign tax savings under totalization agreements by reexamining the certificates of coverage it issues and seeking updated information on foreign Social Security systems; however, this is by its nature a laborious process.

6. How accurate have estimates made by the Office of the Chief Actuary of the effects of totalization agreements been?

Estimates of the effects of totalization agreements are inherently uncertain, as are all projections of potential future events. However, estimates made prior to implementation of existing totalization agreements have been accurate, on the average. The Office of the Chief Actuary has been making estimates for totalization agreements for 25 years and has, with help of the best available data, developed a good track record. Estimates of both additional benefits paid and reductions in payroll taxes received by the U.S. Social Security program have been very balanced. That is, cases where actual data have exceeded the estimate have been about as common as cases where actual data have fallen short of the estimate.

**MEXICAN SOCIAL SECURITY TAXES (WITH RATES)
COLLECTED BY THE MEXICAN SOCIAL SECURITY INSTITUTE¹**

	Sickness And Maternity ²	Retiree Medical Expenses	Death And Disability	Work Risks	Child Care And Social Benefits	Retirement and Old Age Severance ³	TOTAL
EMPLOYER	4.92%	0.075%	1.750%	1.90%	1.00%	5.150%	14.795%
EMPLOYEE	1.11%	1.125%	0.625%	--	--	1.125%	3.985%
GOVERNMENT	0.81%	0.300%	0.125%	--	--	0.225%	1.460%
TOTAL	6.43%	1.50%	2.50%	1.90%	1.00%	6.50%	20.240%

SOURCE: IMSS

¹ In addition to the taxes collected by the Mexican Social Security Institute, another Agency of the Mexican Government (INFONAVIT) imposes on employers a 5% Housing Fund tax.

² Average for high income salaries

³ The .225% represents an averaging of rates of Government contributions. Actual contributions are based on a formula involving the minimum wage in Mexico City.

PREPARED STATEMENT OF TREASURY SENIOR CITIZENS LEAGUE

On behalf of TREASURY Senior Citizens, one of the largest seniors' advocacy groups in the United States, I thank Chairman Hostettler and all the Members of the Judiciary Subcommittee on Immigration, Border Security and Claims for allowing me to submit written testimony for the record on the issue of a Social Security totalization agreement with Mexico.

As the Chairman and members of the Subcommittee are well aware, totalization agreements - pacts between two nations to allow an employee and employer to pay Social Security taxes only once, rather than in both the country of origin and the country in which he or she is currently working - are in force between the United States and some twenty other nations. However, as we understand it, the proposed totalization agreement with Mexico may allow citizens of that nation, who have worked in this country illegally, to receive Social Security benefits. TSCL is concerned that allowing individuals who have worked in this country illegally with invalid Social Security numbers to collect benefits will cause great detriment to the Social Security Trust fund and will, in effect, place a stamp of endorsement on illegal acts.

In its recent report to the House Ways and Means Subcommittee on Social Security, the Inspector General stated that a 1999 audit estimated invalid Social Security numbers may have already cost the Social Security Trust Fund \$287 million, and could cost as much as \$63 million annually. Over the lifetimes of persons who claim benefits using the invalid numbers, the cost to the Trust Fund could exceed \$1.7 billion. In 2000 alone, earnings were reported for more than a half a million persons using non-valid Social Security numbers.

The Inspector General, in its report, stressed that the policy of crediting wages to persons who worked illegally has great implications for the future of Social Security. TSCL supports the Social Security Inspector General's recommendation for legislation that would prohibit the crediting of non-legal earnings and work history for purposes of benefit entitlement.

Further, the existing totalization agreements are, in general, with nations that have close economic parity to the U.S. and where a limited number of workers are affected. We are concerned that in the case of Mexico—where poverty is endemic and where the economy is, at best, extremely fragile—a totalization agreement may be seen as a means for large numbers of Mexican nationals to obtain aid for their dependents through Social Security's disability and supplemental programs. We urge the committee to also address this concern.

Given current budgetary shortfalls and the rising cost of Iraqi freedom, TSCL believes that the payment of benefits for illegal work may impinge on the health and viability of Social Security trust fund and - subsequently—benefits for those individuals who have earned them through legal work. While this nation is built of principles of coming to the aid of those in need, we must not forget about our duty and responsibility to American citizens, including TSCL members and supporters - many of whom fought for the freedom of Americans during World War II.

Our membership understands the price of freedom, and realizes that sacrifice must be made. However, Social Security is a promise made by the United States government to its people. We must work to ensure that this promise is kept.

Again, we appreciate the Committee's efforts in studying this matter, and thank you for the opportunity to submit testimony.

U.S. Border Control

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September 11, 2003

Hand Deliver

Hon. John N. Hostettler
Chairman
Subcommittee on Immigration,
Border Security, and Claims
U.S. House of Representatives
B-370B Rayburn HOB
Washington, DC 20515

Re: Subcommittee Hearing: "Should There Be a Social Security Totalization
Agreement with Mexico?": Testimony on Behalf of U.S. Border Control

Dear Chairman Hostettler:

On behalf of U.S. Border Control, I want to thank you for holding today's hearing entitled "Should There Be a Social Security Totalization Agreement with Mexico?"

We have taken the liberty to prepare, and are enclosing copies of my testimony on this topic, on behalf of U.S. Border Control, that we would respectfully request you include in the record of this hearing. With best regards.

Sincerely yours,

Edward I. Nelson
Chairman

EIN:jl
Enclosures

Subcommittee on Immigration, Border Security, and Claims
Committee on the Judiciary
United States House of Representatives

Testimony of
Edward I. Nelson, Chairman,
U.S. Border Control

With Respect to the Subcommittee's Hearings on the Proposed
Mexican Social Security Totalization Agreement

September 11, 2003

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INTRODUCTION

U.S. Border Control is pleased to submit this testimony to the House Subcommittee on Immigration, Border Security, and Claims with respect to its hearing on the proposed Mexican Social Security Totalization Agreement. We applaud your Subcommittee's interest in this proposal that we have opposed since it first surfaced.

U.S. Border Control ("USBC") is a non-profit, tax-exempt, citizens lobby, incorporated in the Commonwealth of Virginia in 1986, where it is headquartered. USBC, which is tax-exempt under section 501(c)(4) of the Internal Revenue Code, is dedicated to education of the public on issues related to the protection of the sovereignty of the United States, including the establishment and maintenance of effective border integrity systems, economic policies, national defense practices, and immigration policies, focusing on ending illegal immigration by securing our nation's borders and reforming our border and immigration policies. Our organization receives no financial support from any branch of government. All of USBC's support comes from concerned citizens who appreciate the work we are doing and wish to see it continue.

OVERVIEW The Bush Administration is engaged in discussions with Mexico concerning a totalization agreement or treaty whereby Mexican citizens, including those who have entered the United States illegally and have worked in the United States in violation of U.S. employment and residency laws, would be entitled to receive benefits from the U.S. Social

Security system to which they should never be entitled.¹ This is an outrage. USBC is firmly **opposed** to any such agreement for many reasons, but we will focus on only three.

First, any agreement of this sort would unjustly and perversely reward persons who are illegally present in the United States in defiance of the laws of the United States. These law breakers deserve prosecution and/or deportation, not subsidy. Yet the Bush Administration is considering now putting its stamp of approval on their illegal behavior at the expense of the law-abiding American citizenry. This Social Security give-away must be viewed in the context of the Bush Administration's affinity for amnesty programs for illegal aliens. A Social Security Totalization Agreement with Mexico, followed by amnesty for millions of illegal aliens from Mexico, could be the largest "rewards program" for law breaking ever conceived by the mind of man. This cannot be allowed to occur.

Second, the use of tax dollars extracted from American taxpayers to buy the good will of minorities constitutes the type of pandering to racial, ethnic, and national groups which Americans reject. Some may think that, since illegal aliens do not vote, there could be no partisan political motive, but of course, illegal aliens do vote. In fact, as indicated in our analysis after the Presidential vote in Florida in 2000, which is on our website, www.usbc.org, illegal aliens vote illegally in large numbers. Any preference for one group against another must be scrutinized to the greatest degree, and such preferences here should be rejected.

Third, this proposed totalization agreement would jeopardize the stability of the Social Security system. It would imperil the rights of workers to receive from the Social Security

¹ Benefits under the U.S. Social Security system, as used in this testimony, would include those commonly referred to as OASDI — Old Age, Survivors, and Disability Insurance —

system — often referred to as the Social Security Trust Fund, because the government is supposed to be holding in trust those payments which have been made by workers — to provide the OASDI benefits that it is required by law to make. To raid that fund to pay benefits to those who have no legal rights to such benefits would be a travesty. If non-government funds were misused in this fashion, the perpetrators would go to jail.

DISCUSSION

According to the Social Security Administration, the U.S. has totalization agreements with 20 countries: Australia, Austria, Belgium, Canada, Chile, Finland, France, Germany, Greece, Ireland, Italy, South Korea, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. The Social Security Administration (“SSA”) has indicated publicly that only two other totalization agreements, with Argentina and Japan, are under negotiation. <http://www.ssa.gov/international/status.html>. See 42 U.S.C. Section 433.

As of March 6, 2002, the SSA website contained the following language: “[t]here have also been discussions or correspondence on proposed agreements with Brazil, Denmark, Israel, Mexico and New Zealand.” Since then, that quoted information has been deleted from the SSA website. We would request the subcommittee to ask SSA why this important information is now no longer available to American citizens. USBC is deeply concerned about the veil of secrecy that has been brought down over the issue of a Social Security Totalization Agreement with Mexico. We want to know why the Bush Administration is depriving the American

benefits provided by the Social Security Administration (“SSA”) to individuals based upon

people of information they need as sovereign citizens to evaluate this important proposal.

USBC is submitting this testimony after having gleaned from a variety of published sources all the information it reasonably could accumulate prior to the date of this hearing. Truthfully, there are remarkably few sources of information. We are operating on the assumption that published reports of the proposed Mexican totalization agreement are accurate. If they are, such an agreement would jeopardize the financial integrity of the Social Security Trust Fund. (See, e.g., "Social Security Giveaway: New Magnet for Illegal Aliens," Bradenton Herald, Allison Solin, April 6, 2003; "State Department's Idea of a 'Traitor,'" Joel Mowbray, <http://www.townhall.com/columnists/joelmowbray/jm20030204.shtml>, February 4, 2003.)

USBC understands "totalization agreement" to mean an agreement between two nations with the principal goal of eliminating dual Social Security coverage and taxation. Such totalization agreements, however, are not entirely uniform. USBC understands that the essential purpose of totalization agreements is to eliminate the problems of dual Social Security coverage and taxation with respect to workers subject to the laws of two nations with respect to the same employment. (See "U.S. International Social Security Agreements," www.socialsecurity.gov/international/agreements_overview.html.) Based upon the information provided by SSA, such agreements, to date, have been relatively uniform with respect to their basic provisions, although there are some differences. It is not known exactly how the proposed totalization agreement between the United States and Mexico would be different from any of the existing totalization agreements, but its extension of Social Security

their lifetime earnings reported to the SSA under a valid Social Security number.

benefits to untold numbers of illegal aliens undoubtedly would place the proposed agreement with Mexico in a category by itself.

This issue is important, not only for those of us who are contributing to the Social Security system today, as well as for our children, grandchildren, and their progeny as well, but also for the United States as a nation. This kind of proposal threatens to bankrupt the Social Security Trust Fund. At the very least, it would jeopardize the system as we know it, for it would reportedly require future payments of many billions of dollars to persons who at this time do not even figure as potential Social Security beneficiaries. In other words, it would add an enormous financial burden on the Social Security Trust Fund, without any apparent corresponding benefit of significance, and very possibly could cause American workers to lose their Social Security benefits. It is reported that the current 20 agreements in the aggregate affect only 100,000 workers, but a similar treaty with Mexico would cover 165,000 in the first five years alone, and tens or hundreds of thousands thereafter, costing our nation many billions of dollars. However, current and previous administrations are notorious for their underestimates of the number of illegals present in the United States. Frankly, these projections may be dramatically understated, especially if the agreement is followed by an amnesty program for illegal aliens from Mexico. We can see this agreement operating as a powerful magnet to draw yet more waves of illegal immigrants into America. This is such a bad idea, it could only have come from a political consultant, a career bureaucrat, or a disconnected academic — and probably all three.

Even if one were to agree with the Administration's goals, for some reason, before any such agreement is entered into, the first step would need to be a complete and accurate study,

followed by an evaluation, of the costs to America of such an agreement, including the estimated consequences of such an agreement to the Social Security system and to American workers and retirees. We would urge this Subcommittee to investigate thoroughly this aspect of the proposed agreement. America is counting on this Subcommittee to help protect the interests of America's senior citizens and other beneficiaries of the Social Security Trust Fund. We are aware of the request by the Chairman of this Subcommittee to the General Accounting Office to investigate this matter and issue a report, and we trust that other evidence discovered by the Subcommittee, in this hearing and in the future, will help to measure the expected cost of such an agreement. We are grateful for your willingness to expose this issue to the light of day.

We have read the March 2003 Congressional Response Report (No. A-03-03-23053) of SSA's Inspector General, prepared at your request, and note (at page 5, footnote 13) that the law provides that "certain noncitizens in the country illegally may not receive OASDI benefits." (Emphasis original.) We also note the following revealing statements, at page 13 of that Report:

Consequently, noncitizens, whether here legally or illegally, continue to engage in unauthorized employment and earn entitlement to Social Security benefits. If SSA's treatment of noncitizen illegal employment is to change, it will be necessary for current laws to be modified.

Clearly, Congress should take whatever action is necessary to cure this mess, beginning with rejection of the proposed totalization agreement with Mexico. We note (at Appendix C of the above-referenced March 2003 SSA Congressional Response Report) that prior legislative efforts to help remedy the situation have not been successful. Hopefully, the bill introduced by

⁷
Texas Congressman Ron Paul (R-TX-14) in this Congress (H.R. 489), designed to prohibit the crediting for coverage under the Social Security system wages and self-employment income earned or derived by persons who are neither U.S. citizens nor nationals, will become law. We urge each of you to co-sponsor Congressman Paul's bill.

CONCLUSION

This totalization agreement is being promoted as one important to the interest of business relations between the United States and Mexico. But we ask that greater concern be given to the American workers who rely upon the Social Security system. Surely, some other vehicle must be available to the government in its efforts to eliminate any legitimate problem that may exist regarding the dual coverage employment problem for lawful residents, and we would urge the Subcommittee to explore those possibilities in its efforts to investigate and propose legislation in this important area.

But in the meantime, this bi-lateral agreement is simply too important to be entrusted to the Bush Administration alone. We urge this Subcommittee to take the lead in demanding that this terrible idea die and be buried, rather than be hid under a rock, waiting for the dark of night, to be slipped by the American people when they are not on guard.

We at U.S. Border Control join with you in maintaining vigilance to defeat this terrible idea whenever it may be brought forward.

USBC News

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FOR IMMEDIATE RELEASE
Thursday, September 11, 2003
Washington, D.C.

BUSH ADMINISTRATION PLANS TO RAID SOCIAL SECURITY TRUST FUND FOR ILLEGAL MEXICAN ALIENS

"If the Bush Administration stays on course, its so-called Mexican Social Security Totalization Agreement will transfer untold billions of dollars in benefits from Americans who have faithfully paid their taxes to millions of non-citizens and illegal aliens" charged Edward Nelson, Chairman of U.S. Border Control. Mr. Nelson submitted testimony this morning to the Subcommittee on Immigration, Border Security, and Claims of the House Judiciary Committee on the occasion of its Hearing on the proposed Mexican Social Security Totalization Agreement.

"This latest act of pandering to Mexican immigrants will begin a stampede across our southern border larger than anything we have ever seen. This action, coupled with proposals of amnesty for millions of Mexicans could threaten the survival of our Social Security Trust Fund, jeopardizing the health and welfare of millions of Americans," he said.

Although the United States currently has totalization agreements with 20 other nations — providing for mutual entitlement, under the respective laws of both nations, to Social Security benefits to citizens of one nation who have worked in the other — all 20 agreements, in the aggregate, average around 5,000 workers per country. A similar treaty with Mexico, however, would affect at least 165,000 workers in the first years and possibly millions if and when the Bush Administration is successful in granting amnesty to all Mexicans living illegally in the U.S. The estimated drain on the Social Security Trust Fund would be in the billions of dollars.

According to Mr. Nelson, "Social Security benefits should not be paid to individuals not authorized to live and work in the United States. And the law should not be changed to provide such benefits, by treaty or otherwise, particularly where the payment of such benefits would jeopardize the ability of the Social Security Trust Fund to provide all future payments to U.S. citizens who are entitled to receive them."

He continued, "U.S. Border Control sympathizes with law-abiding Mexican citizens, but believes that rewarding those who would thwart U.S. immigration policy, imposing substantial administrative costs on the U.S. government, and then claim a reward from the U.S. Social Security system is both unfair and contrary to sound government policy."

USBC Legal Counsel William J. Olson stated that "Texas Congressman Ron Paul (R-Tex.) has introduced legislation which deserves support to prohibit the crediting for coverage under the Social Security system wages and self-employment income earned or derived by persons who are neither U.S. citizens nor nationals." (H.R. 489, 108th Congress)

U.S. Border Control is a non-profit, tax-exempt organization, established in 1986, that is dedicated to education of the public on issues related to the protection of the sovereignty of the United States, including the establishment and maintenance of effective border integrity systems, economic policies, national defense practices, and immigration policies focusing on ending illegal immigration by securing the nation's borders and reforming the border and immigration policies.

